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LEGISLATURE OF WEST VIRGINIA



SENATE BILLS

OF

Regular and Extra Sessions

1915



CHARLESTON, W. VA.
THE TRIBUNE PRINTING CO.
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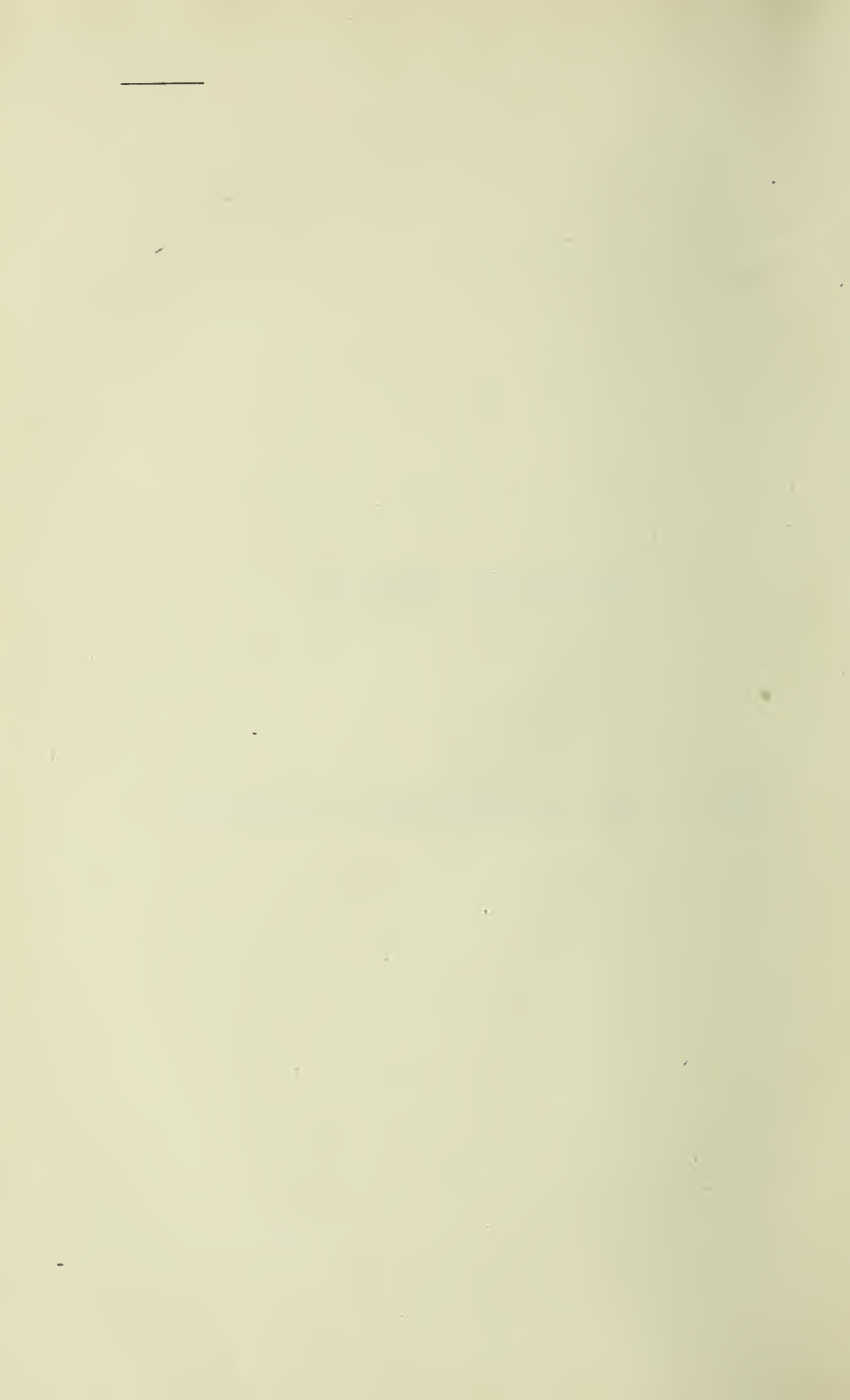
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Senate Bill No. 283

[BY MR. GREGORY.]

Introduced February 4, 1915. Referred to the Committee on Forestry and Conservation.

A BILL to amend and re-enact chapter eleven of the acts of one thousand nine hundred and thirteen, concerning hydro-electric and other companies producing and selling hydraulic, electric or other power; authorizing such companies to exercise the right of eminent domain; defining and regulating the powers, rights, duties, and obligations of such companies, and levying taxes and assessments thereon; regulating the building and maintenance of dams across water streams, and of all structures, works and property connected or used in connection therewith.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Sec. 1. This chapter shall be known as the water power act.

2 In this act unless the context otherwise requires:

3 (a) "Commission", means the public service commission of
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4 West Virginia, or any other officer or body hereafter authorized
5 to exercise the powers or perform the duties now or hereafter con-
6 ferred and imposed by law.

7 (b) "Municipality" means any incorporated city, town or
8 village in this state.

9 (c) "Permit", means a grant of authority under this act to
10 construct, maintain and operate a dam in or across navigable or
11 non-navigable waters for the improvement of the navigation there-
12 of; or for the development of hydraulic power and hydro-electric
13 energy for sale to the public; or for generating electric or other
14 power by steam or gas; or for other lawful purposes.

15 (d) "Grantee", means a corporation receiving a permit un-
16 der this chapter, its lessees, receivers, trustees, successors or as-
17 signs

Sec. 2. All water streams within the state capable of de-
2 veloping hydraulic, electrical or other energy or power, shall be

3 under the control and supervision of the state: *provided, however,*
4 that nothing contained in this act shall deprive any riparian owner
5 of any right or interfere with his exercise of the same.

Sec. 3. All corporations hereafter or heretofore organized
2 under the general laws of this state, and which by their charter
3 have the right to manufacture, supply and sell to the public, hy-
4 draulic, electrical or other energy or power produced by water,
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5 steam or gas, as a motive force, shall, in addition to the other pow-
6 ers conferred by law, have the following rights, powers, and
7 authority:

7 To acquire by condemnation, within the limits only of the
8 territory designated by the public service commission, the lands
9 and rights necessary for the construction and operation of dams
10 across any of the streams of this state, and works connected there-
11 with or useful thereto, either up or down streams therefrom, with-
12 in said limits; and to construct and operate at the site thereof or
13 other points, up or down stream therefrom, within the said limits,
14 and across said stream and dams, together with all works incident,
15 necessary or related thereto, and in connection therewith; to con-
16 demn, within said limits, lands or easements therein for the pur-
17 pose of impounding the waters of any water course or water courses
18 of the state, or of diverting the same without injury to the rights
19 of others; and to raise higher such dams, and to enlarge the works
20 necessary, incident or related thereto, either up or down stream
21 therefrom, within said limits designated by the public service com-
22 mission, as may be required or deemed expedient by such corpor-
23 ations in the manufacture and supply of electrical or other energy
24 or power produced by water, steam or gas as a motive force.

25 To acquire by condemnation, within the limits only of the ter-
26 ritory designated by the public service commission, all lands or

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27 water or interests or rights or easements in lands or waters likely
28 or liable to be flooded or damaged by impounding or diverting the
29 water of any water course in this state or its tributaries, or neces-
30 sary for the construction or operation of dams or power houses
31 or works necessary, incident or related thereto, or likely or liable
32 to be flooded or damaged by the construction or operation or en-
33 largement of the dams or works incident, necessary or related there-
34 to, or damaged or taken in the construction, operation or use of
35 canals, tail-races or exit ways, necessary, useful or convenient for

36 the escape, conveyance or return of the water used in the operation
37 of such works or power plants; but nothing herein shall be con-
38 strued to prevent free access to and from, and the free use of the
39 water so impounded, by any riparian owner, or to impair the rights
40 of any person to the free use of the water streams of this state.

41 To acquire by condemnation within the limits only of the
42 territory designated by the public service commission the necessary
43 land for sub-stations and transmission lines; such corporations
44 shall have no right to condemn a private residence, nor any out-
45 house, garden or orchard within the curtilage of a private resi-

52 In all cases just compensation shall be paid to the owner in
53 the manner provided by law for all property taken or damaged.

Sec. 4. Such corporations shall have the right and authority
2 to condemn and acquire thereby, within the limits only of the ter-
3 ritory designated by the public service commission, any water-
4 mill, steam-mill, mill-dam, mill-race, franchises, rights and powers,
5 privileges, and appurtenances thereunto belonging, with the area
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6 of the lands and water courses liable to be flooded by its dams.

Sec. 5. Such corporations shall have the right and authority
2 to acquire by condemnation, within the limits only of the territory
3 designated by the public service commission, the right to flood
4 public and private ferries and the approaches thereto, but said cor-
5 porations in the event of acquiring said property by condemnation
6 shall re-locate and place public ferries and the approaches there-
7 to in a condition satisfactory to the county court of the county in
8 which said public ferries are located, and to the circuit court of
9 said county or counties trying such condemnation proceedings.

Sec. 6. Such corporations shall have the right and authority
2 to acquire by condemnation, within the limits only of the territory
3 designated by the public service commission, the right to flood priv-
4 ate roads and shall have the right to flood public roads by first pay-
46 dence for a sub-station site, or for the right of way for its trans-
47 mission lines; but this shall not restrict the right of such com-
48 pany to condemn for its dams and power stations the lands liable
49 to be flooded thereby, any dwelling house, orchard, ferry, water-
50 mill, mill-dam, mill-race, school house, public or private cemetery,
51 county road or any other structure within said flooded area.

5 ing to the county court of the county in which the public roads

6 are located the cost of re-locating and making public roads in lieu
7 thereof, satisfactory to the county court.

2 to erect and operate wires, poles and wire lines across public roads,

Sec. 7. Such corporation shall have the right and authority
2 to acquire by condemnation, and to flood, within the limits only of
3 the territory designated by the public service commission, the lands
4 embraced within public and private cemeteries; and the right
5 and authority to acquire by condemnation other lands for the
6 purpose of removing the bodies and monuments or other struct-
7 ures from such public or private cemeteries to such other lands.
8 All the rights of the state of West Virginia in and to lands in such
9 cemeteries to be flooded shall pass to and vest in such corporations,
10 and the lands acquired for the removal of said cemeteries, shall
11 vest in the state for the use and benefit of the owners of the ceme-
12 teries so condemned.

13 Before such corporations shall flood such cemeteries they shall
14 remove the bodies, and monuments, or other structures on the
15 lands acquired for such purpose and re-enter bodies and reset
15-a monuments under the direction and to the satisfaction of the
16 circuit court. If the parties in interest fail to agree as to the lo-
17 cation and are of the additional lands to be required in which to
18 re-inter the bodies and on which to replace the monuments and
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19 other structures, the same shall be determined by the circuit court
20 in which such condemnation proceedings are pending.

Sec. 8. Such corporations shall have the right and authority
2 to acquire by condemnation, within the limits only of the terri-
3 tory designated by the public service commission, easements, ways
4 and right-of-ways, not exceeding a width of one hundred feet for
5 the total length of such right-of-way, upon which to erect towers,
6 poles, or wire lines for the transmission, supply and sale of elec-
7 trical or other energy or power produced by water as a motive
8 force, or by steam power or otherwise: *provided*, that such corpora-
9 tions shall have no right without consent to construct and operate
10 towers, poles, and wire lines upon the right-of-way of any steam or
11 electrical railway, pipe line, telephone or telegraph company, ex-
12 cept to cross the same. Such corporations shall have the right to
13 procure a right-of-way for crossing over any railroad, pipe line,
14 telegraph or telephone lines or other power companies' lines, as
15 provided in section eleven of chapter fifty-two of the code of West
16 Virginia; but no such crossing shall be constructed except in ac-

17 cordance with plans and specifications previously approved by the
18 public commission.

Sec. 9. Such corporations shall have the right and authority
3 within the limits only of the territory designated by the public
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4 service commission, and subject to the regulation thereof, and to
5 the reasonable regulations of the county court of the county in
6 which said roads are located.

Sec. 10. Such corporations shall have the right and authori-
2 ty to acquire by condemnation, within the limits only of the terri-
3 tory designated by the public service commission, ways and rights-
4 of-way not exceeding a width of one hundred feet, for the purpose
5 construcing earth, steam, and electric roads for the transportation
6 of material, equipment and supplies required or useful in the con-
7 struction, or operation and maintenance of their dams and works
8 incidental and necessary thereto.

Sec. 11. Such corporations shall have the right and authori-
2 ty to condemn, within the limits only of the territory designated
3 by the public service commission, the lands owned by churches and
4 their trustees, and public and private school house sites, when
5 within the area liable or likely to be flooded, or necessary for their
6 dams and stations.

Sec. 12. Such corporations are hereby authorized to con-
2 demn the right to flood, raise or change the location of any pipe
3 line within the area liable or likely to be flooded or necessary for
4 their dams: *provided*, that in so doing the use of any such pipe
5 line shall not be destroyed, and such corporations shall have the
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6 right to condemn the lands necessary for raising or changing the
7 location of such pipe line.

Sec. 13. Such corporations shall have the right and authority
2 to remove outside of said rights-of-way such timber as may en-
3 danger by shading, falling or otherwise, any of their works or
4 transmission lines, when they shall have acquired the right to do
5 so, and for that purpose may acquire such timber by condemnation.

Sec. 14. Proceedings for condemnation shall be governed
2 by chapter forty-two of the code of West Virginia. In proceedings
3 to condemn cemeteries, or to condemn lands for the purpose of re-
4 entering bodies, as provided in section seven hereof, notice shall
5 be given also to abutting land owners.

Sec. 15. No permit shall be granted under this act except to

2 a corporation created and organized under the laws of the state of
3 West Virginia.

Sec. 16. Such corporation shall be public service corpora-
2 tions, and shall be subject to all the provisions contained in chapter
3 nine of the acts of one thousand nine hundred and thirteen, and
4 any act amendatory thereof or supplementary thereto.

Sec. 17. Before such corporations shall exercise any of the
2 powers herein authorized, including the right to condemn prop-
3 erty or the right of eminent domain, they shall make application
4 to and have the approval of the public service commission. In such
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5 application shall be set forth in detail the location of the proposed
6 dam, or other method of impounding water; the area and character
7 of land that will be flooded by the impounded water; the amount
8 of water in gallons that will be impounded; the character of the
9 proposed dam, and the horse power that will be developed thereby,
10 and the area of and amount of land the corporation proposes to ac-
11 quire. With such application shall be filed general plans and
12 drawings of the proposed dam, and a statement of the character
13 of materials to be used therein. Detailed plans, specifications and
14 drawings shall be filed with and approved by the public service
15 commission before the work covered thereby shall be commenced.

16 No land or other property shall be acquired by such corpora-
17 tion without the approval of the commission; and any such cor-
18 poration may make application to the commission at any time after
19 permit is granted for authority to acquire additional land or prop-
20 erty, which shall be described in such application; and the com-
21 mission may issue a permit to the corporation to acquire the same
22 if in the discretion of the commission the same shall be convenient
23 or necessary for the purposes of the corporation. The public serv-
24 ice commission shall have power to employ expert engineers or
25 other experts or persons to examine and report upon such loca-
26 tions, plans, drawings and specifications.

Sec. 18. The public service commission shall require or may
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2 authorize such changes in the location, plans, drawings or speci-
3 fications of any proposed dam as may be necessary for the protec-
4 tion of life and property, or for other reasons; and may refuse
5 the application if, in its discretion, the same should not be granted;
6 or grant to such corporation a permit to exercise the powers named
7 in its application, or specified in the permit. The corporation

8 shall then have the right to purchase property or condemn the
9 same, within the limit designated by the commission, for the pur-
10 poses named in this act. No court shall enter any order giving any
11 such corporation the right to condemn property except within the
12 limits only of said territory, and not then, unless the petition avers,
13 and the averment be supported by competent proof, that the public
14 service commission has approved the location and general plans
15 and drawings of the proposed dam, and authorized such corpora-
16 tion to condemn property. Before making application to the pub-
17 lic service commission for a permit, such corporation shall give
18 notice thereof by publication once in each week, for four successive
19 weeks, in two newspapers of general circulation published in the
20 county wherein the proposed dam is to be located, if there be such ;
21 if not, by publishing the same in two newspapers of general cir-
22 culation in such counties, and by written or printed notices posted,
23 at least four weeks prior to making such application, at fifty places
24 within the area likely to be flooded by the water to be impounded

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25 by such dam. The public service commission shall hear and con-
26 sider any objections or remonstrances against the proposed un-
27dertaking. No priority of location shall be recognized by the pub-
28 lic service commission in the matter of application for permits
29 under this act. In case there are two or more applicants for per-
30 mits covering the same location, the commission shall have power
31 to refuse to grant permits to any or all such applicants, or to
32 grant a permit to such applicant as the commission, in its dis-
33 cretion, may deem best.

Sec. 19. Any corporation incorporated for any of the pur-
2 poses named in section three of this act, and which shall have
3 in good faith located a dam for its purposes, together with the
4 probable contour lines of the water proposed to be impounded
5 thereby, and which shall have actually expended as much as fifty
6 thousand dollars in the construction of said dam on or before
7 May twenty-second, one thousand nine hundred and thirteen,
8 shall have all the powers, as to such dam and the land and
9 property within such contour lines, conferred by this act with-
10 out filing the application and obtaining the permit named in this
11 act; and such corporation shall not be liable to any penalty pro-
12 vided by this act for failure to make such application and ob-
13 tain such permit before proceeding with the construction of such
14 dam; but said commission may require or authorize any change

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13

15 in the plans, drawings, specifications and constructed portions
16 of such dam as shall be necessary for the protection of life and
17 property, or for other reasons, as hereinbefore provided. The
18 commission shall have the same power as to the further con-
19 struction of said dam as if it were one for which an application
20 and permit were required under this act as hereby amended.

Sec. 20. The public service commission shall have the pow-
2 er to levy an assessment on any corporation making application
3 to said commission to build any dam over ten feet in height or
4 any structures and transmission lines necessary for the produc-
5 tion and transmission of hydraulic, electrical or other energy or
6 power, to cover the cost of the employment of expert engineers
7 or other experts or persons, to pass upon the plans and designs
8 of dams, structures and transmission lines, in such an amount
9 as may be deemed proper by the said commission, and to be paid
10 at such time as it may demand, as a condition precedent to the
11 consideration of any application for a permit. The commis-
12 sion shall have the power to levy an additional assessment on each
13 applicant, from time to time, sufficient to pay the cost of a proper
14 and sufficient inspection of said dams, structures and transmis-
15 sion lines by qualified engineers and inspectors, and the compen-
16 sation of accountants, who may be employed by the commission

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17 during the construction of said dams, structures and transmis-
18 sion lines, and thereafter.

Sec. 21. The public service commission shall have the pow-
2 er to make such rules and regulations as it may deem necessary
3 to carry out the provisions of this act. The commission shall
4 have the power to examine any dam, whenever in its discretion
5 the public safety or welfare shall so require, and after hearing,
6 either on its own motion or on complaint, to make and serve an
7 order directing any person, corporation, officer or board construct-
8 ing, maintaining or using any dam situate on any of the public-
9 ly or privately owned water or lands of this state, to make such
10 dam safe within a reasonable time, and in such manner as shall
11 be specified in such order. The commission shall determine
12 what alterations, additions, or repairs are necessary to make the
13 same safe, and may cause any dam to be removed on failure of
14 the owners thereof to comply with the commission's orders.
15 The commission may, in case of emergency, without notice, cause

16 to be drawn off, in whole or in part, the water impounded in any
 17 dam, whether such dam be situated on publicly or privately own-
 18 ed lands or waters of this state, whenever the commission shall
 19 determine that such action is necessary to prevent impending
 20 damages to persons or property.

Sec. 22. The public service commission shall not grant
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2 or issue a permit for the building of a dam above ten feet in
 3 height which is not so designed as to satisfy the commission,
 4 after full investigation, that the ratio of resistance of the pro-
 5 posed dam against sliding, overturning, rupture, or failure from
 6 any cause whatsoever, will be not less than the ratio given in the
 7 following table for different heights of dams:—

8	10 and less than	20 feet, a ratio of	2 to 1
9	20 and less than	30 feet, a ratio of	3 to 1
10	30 and less than	40 feet, a ratio of	4 to 1
11	40 and less than	50 feet, a ratio of	5 to 1
12	50 and less than	60 feet, a ratio of	6 to 1
13	60 and less than	70 feet, a ratio of	7 to 1
14	70 and less than	80 feet, a ratio of	8 to 1
15	80 and less than	90 feet, a ratio of	9 to 1
16	90 and less than	100 feet, a ratio of	10 to 1

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25 er site and the construction of a dam, the public service commis-
 26 sion shall make an investigation as to the economic value and
 28 al deposits, and other natural resources, likely or liable to be
 29 submerged, damaged, destroyed, rendered inaccessible, or more
 30 difficult of access, within or adjacent to the contour of the area
 31 to be flooded by such dam. The findings of the public service
 32 commission, upon such investigation, shall be made a part of
 33 the record of any order of the commission granting or refusing
 34 a permit for the appropriation of a power site or the construction
 35 of a dam. In no case shall the public service commission grant
 36 such permit where its investigation shall show that the economic
 37 value of the natural resources to be damaged or destroyed in the
 38 development of the proposed power site is greater than the eco-
 39 nomic value to the people of West Virginia of the power which
 40 might be made available by such development. In estimating
 41 and comparing such economic values, the commission shall con-
 42 sider such public inconvenience as may result from the removal
 43 and relocation of roads, bridges, railroads and other public utili-

44 ties, the flooding of suitable and desirable routes or locations for
45 roads, railroads, or other means of transportation, and other chang-
46 es to be made necessary by the development of such power site.

47 In considering an application for a permit to construct any
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48 such dam, the public service commission shall hold the safe-
49 guarding of life and property of the highest importance and
50 shall take abundant precaution against loss or disaster which
51 might result from the failure of any such dam.

Sec. 23. In addition to the annual license tax on its chart-
2 er, as provided in chapter thirty-two of the code of West Virginia,
3 and all other taxes and assessments, every such corporation shall
4 pay an annual license tax based on its gross income derived from
5 the sale of hydraulic, electrical, or other energy or power, and
6 from all other sources. Such tax, until otherwise fixed by law,
7 shall be one per cent of such gross income for the license year
8 ending with the thirtieth day of June of each year. Such an-
9 nual tax shall be ascertained by the state tax commissioner under
10 such rules and regulations as shall from time to time be pre-
11 scribed by him. For the purpose of ascertaining the same, the
12 president, secretary or treasurer or other managing officer of such
13 corporation shall file with the state tax commissioner within thir-
14 ty days after the thirtieth day of June of each year, a written
15 detailed report, under oath, showing the gross income of such
16 corporation for the year ending on the thirtieth day of June
17 preceding the filing of such report, and from what source or
18 sources derived. The state tax commissioner, or any person au-
19 thorized by him, is authorized, for the purpose of ascertaining
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20 such tax, to take any evidence and examine under oath, which he
21 is hereby authorized to administer, any officer or agent of such
22 corporation or other person. The phrase "gross income", as used
23 in this section, shall mean that income which should be derived
24 by such corporation from the sale of hydraulic, electrical or other
25 energy or power, and income derived from all other sources, eith-
26 er within or without the state, whether direct or through any
27 distributing or affiliated company or agency. When the state
28 tax commissioner has ascertained the amount of such tax as
29 any corporation should pay for any year, he shall notify the cor-
30 poration of the amount thereof by written notice deposited in the
31 post office, addressed to such corporation at its principal office

32 or place of business. Such finding shall be final and conclusive,
33 unless appealed from within twenty days in the manner herein-
34 after provided.

Sec. 24. Any corporation feeling itself aggrieved by the
2 findings of the state tax commissioner as to the amount of such
3 tax, shall have the right within twenty days from the date of the
4 notice mailed to it, as provided in section twenty-three hereof, to
5 appeal therefrom to the board of public works, which appeal the
6 board shall promptly consider and determine. The board shall
7 fix the amount of such tax as it shall deem just and according to
8 law; and the corporation shall pay the same to the state tax com-
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9 missioner. If any such corporation shall fail or refuse to file
10 such report in the time prescribed therefor, or to make such re-
11 port as is required by this act, the state tax commissioner shall
12 ascertain, from the best sources obtainable, the amount of such
13 tax which such corporation should pay, and no appeal shall lie
14 from his finding.

Sec. 25. If any corporation shall fail to pay the amount of
2 such tax within sixty days after the date of the notice of the
3 amount thereof sent to it by the state tax commissioner, or with-
4 in thirty days after the amount is fixed by the board of public
5 works on appeal, the state tax commissioner shall proceed to col-
6 lect the same by any appropriate remedy, with a penalty of ten per
7 cent added thereto. Such tax shall from the time of its ascer-
8 tainment by the state tax commissioner, or the board of public
9 works, on appeal, be a lien on all the property of the corporation
10 in favor of the state, superior to all other liens, except liens for
11 other taxes. All such moneys collected by the state tax commis-
12 sioner shall be paid by him into the state treasury monthly.

13 The amount of any assessment levied by the public service
14 commission of any corporation, as provided in section twenty
15 hereof, shall be certified to the corporation and to the auditor by
16 the secretary of the commission, together with the date when such
17 assessment is payable, as fixed by the commission. It shall be
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18 the duty of the corporation to pay the same into the state treasury
19 within the time so specified. Any such assessment shall be a
20 lien in favor of the state on all the property of the corporation
21 on which it is levied, superior to all other liens, except liens for
22 taxes. If any corporation shall fail to pay the same within said

23 time, it shall be the duty of the auditor to collect the same in the
24 manner that other taxes or claims due the state are collected, with
25 a penalty of ten per cent added thereto. When paid, the amount
26 of such assessments shall constitute a special fund, to be drawn
27 out of the treasury from time to time on the order of the public
28 service commission, to be expended for the purposes for which
29 levied; and such sums as may from time to time be paid into the
30 treasury are hereby appropriated for such purposes.

Sec. 26. Any corporation which exercises any of the rights
2 conferred by this act, shall be under the duty and obligation to
3 manufacture and sell to the state and to the people thereof to the
4 extent of their demand or to the limit of production, hydraulic
5 power, or electric current or energy or other power, without un-
6 just discrimination at reasonable rates, and in accordance with
7 any classification now or hereafter prescribed by law, at rates
8 made or approved by the commission. The commission shall
9 have power to vacate any rate, and to set aside rules or reg-
10 ulations which it shall hold to be unreasonable or unjust,
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11 upon complaint, with right of appeal to the complainant or
12 the corporation from the decision of the public service com-
13 mission to the circuit court of Kanawha county, and an ap-
14 peal from said court to the supreme court of appeals by the com-
15 plainant, the corporation, or the commission.

Sec. 27. The public service commission shall have the right
2 to regulate rates and charges for service to consumers of electrici-
3 ty and other power produced by any public service corporation,
4 at the site described in the permit, and at all points where dis-
5 tributed within this state; and to fix and determine the prices
6 and manner of the sale and distribution of the same. All such
7 rates, charges and tolls for electricity and other power produced
8 by any public service corporation shall be just and reasonable, and
9 subject to the regulation and control of the public service com-
10 mission, as provided in chapter nine of the acts of one thousand
11 nine hundred and thirteen, and any act amendmentary thereof
12 or supplementary thereto.

13 No contract for the sale or delivery of electricity or other
14 power shall become effective until approved by the commission;
15 and no such contract shall be made for a longer period than five
16 years.

Sec. 28. Nothing contained in this act shall be construed

2 to interfere with the exercise of jurisdiction by the government
3 of the United States over navigable streams.

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4 Whenever a permit is granted for the construction of any
5 dam across any navigable streams, the applicant to whom such
6 permit is granted shall construct, maintain and operate without
7 expense to the state, in connection with any such dam and ac-
8 cessory or appurtenant works, a lock, or locks, booms, sluices,
9 fish ways, boat hoists, marine railway or other device or other
10 structure or structures which the public service commission or
11 the legislature at any time may deem necessary to the interests of
12 navigation, in accordance with such plans as the public service
13 commission may approve.

Sec. 29. The jurisdiction of the public service commission
2 under this act shall extend to and include all persons, associations
3 of persons, firms, corporations, municipalities and agencies, en-
4 gaged in the generation of electricity or other power by water,
5 steam or gas, and the transmission of the same for the purpose
6 of furnishing customers with light, heat, or power, or for other
7 purposes; and shall also include the furnishing or transmission of
8 water taken from such dams for power, manufacturing, municipi-
9 pal, domestic, irrigation or other purposes.

Sec. 30. The charter or franchise of any corporation now
2 organized, or that shall be hereafter organized, to engage in or
3 carry on any business subject to the provisions of this act, shall
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4 be renewable only upon such terms and conditions as shall then
5 be prescribed by law.

Sec. 31. The commission shall have power, authority, and
2 jurisdiction to investigate, ascertain, and determine all reason-
3 able methods of construction, equipment, maintenance, and opera-
4 tion of any dam and improvement so as to conserve and protect
5 all public and private rights in any of the waters of the state,
6 of navigation, and protect life, health, and property. The com-
7 mission shall, at any time, in the interest of public safety or public
8 rights, order and require anything reasonably necessary therefor.
9 No franchise or permit granted under this act shall limit the
10 authority of the commission to protect and conserve all public
11 rights.

Sec. 32. Any permit granted under the provision of this
2 act shall be in effect and continue for a period of thirty years from

3 the date of the filing of written acceptance and consent by the
4 grantee of all its terms, provisions and conditions, executed in
5 such form as the commission may order and approve, unless soon-
6 er revoked; and such permit may at the expiration of said period
7 of thirty years be renewed upon such terms and conditions as
8 the public service commission or the legislature may then require,
9 or as shall then be provided by law. But any such permit may be
10 revoked at any time by the public service commission for failure to

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11 comply with the provisions of this act, or for any other good and
12 sufficient cause, subject to review by any court of competent juris-
13 diction.

Sec. 33. All issues of capital stock, bonds and other se-
2 curities, and all mortgages, deeds of trust and other liens made
3 by such public service corporation for the purpose of raising funds
4 to be used by the said corporation and invested in its plant and
5 property, shall be subject to the approval of the public service
6 commission.

Sec. 34. Such corporation shall install and maintain a
2 complete system of accounting to be prescribed by the commission,
3 according to which all accounts covering the financial transac-
4 tions, and the receipts and expenditures of said corporation shall
5 be kept and reported, and the accounts and vouchers for all re-
6 ceipts and disbursements of every kind shall be examined and
7 audited monthly, by an expert accountant or accountants ap-
8 pointed by the commission for the purpose, and reports of said ac-
9 countants shall be filed with the commission for approval or dis-
10 approval; and when approved shall be safely filed and securely
11 kept in the office of the commission.

12 Such system of accounting shall be so kept as to show the de-
13 tailed and itemized cost of the power site, as referred to in sections
14 thirty-five and thirty-six hereof. After such corporation shall have
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15 completed its plant and begun the sale of its products, the public
16 service commission shall make up and enter on its record a detailed
17 statement of the cost of the power site of such corporation; and
18 may revise such statement at any time thereafter for good cause,
19 and on notice to the corporation.

20 Such corporation shall file with the commission a report for
21 each calendar year, giving the names and addresses of all stock-
22 holders of record, directors, officers, managers and superinten-

23 dents, and the salaries paid to each; and such salaries shall be
24 just and reasonable, and subject to the approval or disapproval
25 of the commission.

26 All expenses for organization and promotion, and engineer-
27 ing and legal services and salaries shall be just and reasonable,
28 and shall be fixed by or subject to the approval of the commission.
29 All discounts and charges by underwriters or by financial agents
30 for the marketing of bonds and other securities of said corpora-
31 tion, shall be just and reasonable, and subject to the approval of
32 the commission.

33 All bonuses, by way of stock or other obligations, given to
34 promoters for services, or in payment for alleged water rights or
35 locations of dam sites, having a purely speculative value and here-
36 tofore issued, shall be surrendered and cancelled, and in lieu
37 thereof, the fair cash value of such services and rights shall be as-

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38 certain by the commission, and paid by said corporation.

39 The salaries to be paid to the accountants appointed to act
41 porations shall be paid out of the fund provided for in section
42 twenty of this act. After construction has been completed the
43 charges for auditing and monthly reports shall be paid by said
44 corporations as may be ordered and directed by the commission.

Sec. 35. All permits, rights, franchises and privileges
2 granted by this act, or that may be granted under the provisions
3 thereof, are granted subject to the right of the state, at any time
4 after thirty years from the date of the permit, upon at least one
5 year's notice thereof, to acquire all the property of the grantee
6 acquired, constructed, or maintained and used and useful in car-
7 rying out the purposes for which the permit, rights, franchises
8 and privileges were granted, at such value as may be determined
9 by the public service commission to be the reasonable value there-
10 of; but no allowance shall be made for unreasonable costs of
11 financing, for promoters' profits, or for the value of any permit,
12 or of any franchise, right or privilege granted by the state or any
13 political sub-division thereof; *provided*, that no more shall be
14 paid for the lands, buildings, waters, rights-of-way, easements, or
15 any other portion of the power site, than the value of such power
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16 site as ascertained by the commission as provided in section thirty-
17 four hereof.

Sec. 36. All permits, rights, franchises and privileges grant-

2 ed by this act, or that may be granted under the provisions there-
3 of, are granted subject to the right of the state, upon at least one
4 year's notice thereof, to acquire all the property of the grantee
5 acquired, constructed, or maintained and used and useful in car-
6 rying out the purposes for which the permit, rights, franchises
7 and privileges were granted, at such value as may be determined by
8 the public service commission to be the reasonable value thereof;
9 but no allowance shall be made for unreasonable costs of financ-
10 ing, for promoters' profits, or for the value of any permit, or of any
11 franchise, right or privilege granted by the state or any political
12 sub-division thereof; *provided*, that no more shall be paid for the
13 lands, buildings, waters, rights-of-way, asements, or any other
14 portion of the power site, than the value of such power site as
15 ascertained by the commission as provided in section thirty-four
16 hereof.

Sec. 37. No transfer or assignment of any permit or of any
2 right or privilege hereunder shall be made to a foreign corporation
3 or to a citizen of another state or foreign country, nor shall any
4 such foreign corporation or person acquire title to any part of
5 the dam site or other real estate, power house, machinery or other

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6 property of the grantee, necessary and useful in the operation of
7 its power plant, and every such deed, lease of contract, assignment
8 or transfer intended to pass title to any such property or intend-
9 ed to pass the right to operate or control the same to any such
10 foreign corporation or person, shall be void. Nor shall any tran-
11 fer, sale, lease or assignment of said property be valid unless ap-
12 proved by the public service commission.

Sec. 38. Nothing in this act shall be construed as to exempt
2 or release any person, firm or corporation owning or operating
3 any dam and appurtenant works under the provisions thereof
4 from any common law or statutory liability for damages resulting
5 from or growing out of the construction, maintenance, or operation
6 of such dam, or works; or as in any manner affecting such lia-
7 bility of any person, firm or corporation; or as in any manner
8 creating any liability on the part of the state for damages result-
9 ing from or growing out of the construction, maintenance, or op-
10 eration of any such dam or works.

Sec. 39. Nothing in this act contained shall be construed
2 so as to prevent any municipality or any public service corporation
3 engaged in supplying water to any municipality from taking wa-

4 ter for the purpose of such municipality and the use of the inhabi-
5 tants thereof from waters impounded by any dam constructed
6 and maintained by any public service corporation.

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Sec. 40. If any improvement, maintained under any permit
2 granted pursuant to the provisions of this act, shall be owned,
3 leased, trusteeed, possessed, or controlled by any device permanent-
4 ly, temporarily, directly, indirectly, tacitly, or in any manner,
5 whatsoever, so that the same form part of or in any way effect
6 any combination, or shall be in any wise controlled by any combi-
7 nation in the form of an unlawful trust, or form the subject of
8 any contract or conspiracy to limit the output of any hydraulic
9 or hydro-electric power derived therefrom, or in any manner or
10 degree in restraint of trade in the generations, sale, or distribu-
11 tion of hydraulic or hydro-electric power derived therefrom, the
12 state may take possession by proceedings instiuteed by the com-
13 mission as in cases of receivership; and in such proceedings the
14 members of the commission shall be appointed to act as receivers
15 during such period as the court may determine.

Sec. 41. No permit granted under this act shall become ef-
2 fective unless within ninety days after notice from the commis-
3 sion that the same has been granted, the grantee shall file with
4 the commission a written acceptance thereof. Any permit granted
5 under this act shall be null and void unless the dam thereby au-
6 thorized to be constructed be completed within five years from the
7 time when such permit becomes effective and in force. The com-

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8 mission may, however, upon good cause being shown, extend such
9 time for an additional two years.

Sec. 42. If any section, or part of a section, of this act here-
2 after be held by any court to be unconstitutional, such decision and
3 holding shall in no wise effect or render void the remainder of
4 the act.

Sec. 43. All acts and parts of acts inconsistent herewith
2 are hereby repealed.

Senate Bill No. 52

[BY MR. PARRISH.]

January 13, 1915—By Mr. Parrish. Referred to the Committee on Medicine and Sanitation.

A BILL to protect the public health by preventing the pollution and preserving the purity of the waters of the state, giving to the state board of health supervision and control over the public waters, sewage, trades wastes and refuse and the disposal thereof, providing for the construction, alteration and operation of plants or works for the collection, transportation, and for the purification of said products, the control of the discharge of the same into any rivers or streams of the state; conferring upon cities, towns, municipalities and counties the power to raise funds for said purposes, and to use, when necessary, the public highways, and the right to appropriate private property for said purposes, by making compensation thereof; rescribing penalties for violations of the provisions of this act and the orders and regulations of the state board of health made under the authority by this act conferred; appropriating money for carrying this act into effect, and repealing sections serial numbers five thousand three hundred and sixty-four, five thousand three hundred and sixty-five, five thousand three hundred and sixty-six and five thousand three hundred and sixty-seven of the Code of West S. B. No. 52.] 4

Virginia, A. D., one thousand nine hundred and thirteen, and renumbering the remaining one hundred and two sections of Chapter one hundred and fifty of said Code in the order in which they appear therein from one to one hundred and two, both inclusive, and adding to said chapter sections one hundred and three to one hundred and thirty-six, both inclusive.

Be it enacted by the Legislature of West Virginia:

Section 1. The state board of health shall have general supervision and control over all of the waters of and within the state, in so far as the sanitary and physical condition thereof may affect the public health and comfort. It shall do, or cause to be done, all acts and things necessary to prevent the pollution of all streams, lakes, ponds and rivers within the state, from which waters

7 are taken by the inhabitants of any city, town or village within
8 the state, for domestic use, and shall make and enforce rules
9 and regulations preventing all persons, firms, municipalities and
10 corporations from polluting, or rendering unwholesome for do-
11 mestic use, any and all waters required by the inhabitants of
12 any such city, town or village, for domestic use. It shall pro-
13 vide itself with maps, plans and documents showing the source of
14 domestic water supplies of each city, town or village within the
15 state, and may call on the municipal authorities to supply such
16 maps and papers for that purpose as they may have available, or

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17 may reasonably procure. The state board of health shall have and
18 maintain an office in the city of Charleston, state of West Vir-
19 ginia, in which such maps, plans and documents shall be filed
20 and kept for reference and examination. It shall make frequent
21 sanitary analyses of all waters from which waters are taken to
22 supply any town or city and report the results of all tests to the
23 officers and board of health of the municipality served. The
24 state board of health shall establish and maintain a chemical and
25 bacteriological laboratory for the examination of public water
26 supplies, and the effluent of sewerage purification works, and for
27 the examination of food suspected to be the cause of disease. No
28 charge shall be made for any such examination or test.

Section 2. The state board of health shall cause an in-
2 spection to be made semi-annually of all rivers, lakes, ponds,
3 reservoirs and streams from the point of intake to the source, from
4 which water is taken for domestic use by the inhabitants of any
5 city, town or village in the state, and, for the purpose, shall ap-
6 point a competent resident physician of the county in which the
7 inspection is to be made, as inspector, to make the same. The
8 inspector so appointed shall, in all cases, be accompanied by the
9 superintendent or executive officer of the water works company,
10 or department, if water is supplied by a municipality, and, in
11 counties in which more than one city, town or village is supplied

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12 by water works system with water for domestic use, the superin-
13 tendent or executive officer of the principal company or depart-
14 ment of the municipality, where the municipality supplies the
15 water, of the chief town or city, shall accompany the inspector in
16 making any inspections required. The inspection shall embrace
17 a careful examination of every stream and tributary from which
18 waters for domestic purposes are derived, and every probable

19 source of pollution of the same. The inspector shall make a de-
20 tailed written report covering the entire work performed by
21 him, showing the actual condition of the rivers, streams, lakes,
22 ponds and reserviors, any pollution thereof, or any pollution that
23 may probably result from conditions observed by him. The re-
24 port shall be made in triplicate, and one copy thereof shall be
25 forthwith forwarded to the state board of health, and one to the
26 municipal board of health, for which the inspection is made,
27 and one copy be delivered to the county health officer. The
28 inspector shall receive, as compensation for his services, the sum
29 of five dollars, (\$5.00), per day, for the time actually employed
30 by him, and in addition thereto, he shall be paid his actual ex-
31 penses incurred in performing the work. The superintendent or
32 executive officer accompanying him, shall join in the report made
33 by the inspector, but shall receive no salary. He shall, however,
34 be reimbursed the actual expenses incurred by him in the per-
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35 performance of this duty. The expense of making these inspections
36 shall be paid by the city, town or village supplied by water. In
37 counties in which more than one city, town or village is supplied
38 by a water works system, the cost shall be apportioned among the
39 different cities, towns and villages so supplied, in portion to
40 the amount of time expended in inspecting the sources of water
41 supply of the different cities, towns and villages. .

Section 3. The state board of health shall consult with and
2 and advise the authorities of cities and towns and persons hav-
3 ing, or about to have, systems of water supply, drainage and sewer-
4 age installed, as to the most appropriate source of water supply
5 and the best method of assuring its purity, and as to the best
6 method of disposing of drainage or sewerage with reference
7 to the existing and future needs of other cities, towns or persons
8 which may be affected thereby. It shall also consult with and
9 advise all corporations, companies or persons engaged, or intend-
10 ing to engage, in any manufacturing or other business enterprise,
11 the drainage or sewerage from which may tend to pollute any
12 inland water, as to the best method of preventing such pollution,
13 and it shall conduct experiments to determine the best methods
14 of the purification or disposal of drainage or sewerage. Cities,
15 towns and all other corporations, companies or persons shall
16 submit to the state board of health for its advice and approval

17 plans of their proposed systems of water supply or of the dis-

18 posal of drainage or sewerage, and no city, town or persons or
19 company shall proceed to build or install, or enlarge or extend
20 any system of water supply, drainage or sewerage disposal, with-
21 out first obtaining the approval of the state board of health.

Section 4. The state board of health shall have supervi-
2 ion and control over the surroundings of any source from which
3 either surface or underground water, for potable purposes, is
4 collected for delivery in containers; and it shall also assume juris-
5 diction over the method of collecting, bottling and delivering
6 such waters. After the passage of this act no such waters shall
7 be collected, bottled or delivered until a written permit so to do
8 has been issued by the state board of health or local health officer
9 to the owner of such supply. No such permit shall be issued if
10 the state board of health determines that said water is, in any way,
11 injurious to the public health. Corporations, companies and per-
12 sons handling potable waters, shipped, from points outside of the
13 state of West Virginia, shall receive permits to sell waters only
14 upon presentation to the state board of health of a permit issued
15 by the state board of health of the state from which the water is
16 collected, stating that the source of such water supply and the
17 method of handling the water, as practiced within the limits of
18 that state, are such as not to be prejudicial to the public health,
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19 and that said water is allowed to be sold within the limits of the
20 state issuing said permit. Nothing herein shall prevent the
21 state board of health from prohibiting the use of water shipped
22 from another state, if, in its judgment, the water is shown by an-
23 alysis to be unfit for potable purposes, or if it is made so by such
24 handling as it may receive after arriving within this state.

Section 5. Whenever the state board of health finds, upon
2 investigation, that any water supply or sewerage system, or re-
3 fuse disposal works, on account of incompetent supervision or
4 inefficient operation, is not producing such results, from a sanitary
5 standpoint, as might reasonably be expected, or is in any way a
6 menace to the public health or comfort, or is creating a nuisance,
7 it shall issue an order to the proper officer, board, department or
8 person having charge of, or owning, such system or plant, to se-
9 cure such operating results as might reasonably be expected,
10 which results shall be obtained within such time as shall be
11 satisfactory to the state board of health. If the desired results
12 be not produced within the time specified, the state board of
13 health may order the proper officer, board, department or person

14 having charge of, or owning such system or plant, to appoint,
15 within such time as it may specify, and pay the salary of, a com-
16 petent person, to be approved by the state board of health, who

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17 shall take charge of and operate such system or plant, so as to
18 secure the results demanded by the board.

Section 6. Whenever the state board of health finds, upon
2 investigation, that any water supply or sewerage system, or re-
3 fuse disposal works, is in any way a menace to health or comfort,
4 or is creating a nuisance, and conditions cannot be sufficiently im-
5 proved, in the opinion of the board, by mere change in the method
6 of operation, the state board of health shall be empowered to
7 issue an order requiring the owner of the system or plant to
8 make such alterations or extensions to the system or plant, or to
9 install such new system or plant, as the board may determine
10 necessary to correct improper conditions. The state board of
11 health shall name in its order such time for the completion of
12 the work as it may deem reasonable and proper.

Section 7. When an order, mentioned in the preceding
2 section, shall have been served upon any county or municipality,
3 the said county or municipality shall proceed to raise such funds
4 as may be necessary to comply with the order of the state board of
5 health, by repairing and remodeling its water system or sewerage
6 system and sewerage disposal plant, or by installing a proper
7 water system, sewerage system or sewerage disposal plant, or by
8 performing all of said acts. The county court of any county and
9 the council of any municipality is hereby authorized to levy a
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10 special tax for the purpose upon all of the taxable property within
11 the county or the municipality. Such tax, however, shall not, in
12 any one year, exceed the rate of twenty cents upon each one hun-
13 dred dollars, valuation of the taxable property. When money for the
14 purpose cannot be otherwise secured, any county or municipality
15 shall have authority to issue its bonds and sell the same in order
16 to raise such funds: *Provided, however,* that no county or munic-
17 ipality shall issue bonds for such purpose in an amount, includ-
18 ing existing indebtedness, bonded or otherwise, in the aggregate,
19 exceeding five per centum of the value of the taxable property
20 therein, to be ascertained by the last assessment for state, county
21 and municipal taxes, previous to the incurring of such indebted-
22 ness. No debt shall be contracted under this section, unless and
23 until all questions connected with the same shall have been first

submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same. The general laws governing the issue of bonds by any county, town or city, shall control the issuing of bonds under this section, except that the aggregate indebtedness of any county or municipality may, for the purpose of this act, exceed two and one-half per centum of the value of the taxable property within the county or municipality. No moneys raised under the provision of this section shall be expended for any purpose other than herein enumerated, and no

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part thereof shall be paid out unless, and until, the expenditure and the purpose thereof shall have been approved by the state board of health.

Section 8. The county court of any county, and the council of any town or city in the state, shall have authority to provide for one or more systems of disposal works for the purification of the sewerage of any city, town or county, or of any part thereof, and to build, operate and maintain such disposal works as the county court, or council, may deem necessary; to construct, operate and maintain trunk lines sewers, drains and laterals with the appurtenances thereof, from the corporate limits of any city or town to a proper location for a sewerage disposal plant, and to a connection with any creek, ravine or river into which sewerage and waste, when purified, may lawfully be discharged. Whenever a single sewerage disposal plant and connecting sewers may properly serve more than one municipality, the different municipalities shall contribute to the cost of construction and operation thereof, in the proportion that the total value of the taxable property in each city or town bears to the aggregate taxable property within all of the cities and towns so to be served. Whenever any territory not embraced within the corporate limits of any town or city may be served by such sewerage disposal plant and connecting sewers, the county or S. B. No. 52.]

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counties within which the territory so served is located shall contribute an equitable proportion of the costs of installing and operating such plant and system. The county court of any county in which any trunk line sewer and sewerage disposal plant may be constructed, is hereby authorized to contribute any amount, or amounts, towards the construction of the same, that the county court of the county may deem advisable.

Section 9. For the purpose of securing a proper water

2 supply by impounding by dams, or otherwise, and of transport-
3 ing the same to the people to be served, in any city or town in
4 the state, any city or town is hereby authorized to use and occupy
5 any public highway, the use of which may become necessary in
6 the construction and operation of its impounding reservoirs,
7 dams, transporting and other lines. It shall, however, immediate-
8 ly repair, in substantially as good condition as when occupied, any
9 public road which it may use for lines or for temporary purposes,
10 and shall replace, by another convenient and suitable highway, any
11 part of the public highway which it may be found necessary to
12 permanently occupy and use for the purposes aforesaid. Any
13 city or town within the state is authorized to construct and main-
14 tain any trunk line sewer, from the corporate limits to the point
15 where any sewerage disposal plant may be located, at, in, upon
16 and along any public county road. It shall, however, forthwith

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17 replace, in as good condition as when occupied, any such public
18 county road along or upon which a sewer may be constructed.

Section 10. Any city, town or county is hereby authorized to
2 take and appropriate private property, for the purpose of imound-
3 ing, storing, transorting and purifying water to be used for
4 domestic purposes by the inhabitants of such city, town or county,
5 and for the purpose of constructing and maintaining trunk line
6 sewers and sewerage and waste disposal plants, in order to purify
7 the sewerage and waste matter, and to prevent the pollution of
8 the streams and adjacent waters. Any city, town or county, de-
9 siring to appropriate private property for any of the uses afore-
10 said, shall cause the same to be condemned and make compensation
11 therefor, in all respects, as provided in Chapter 42 of the Code
12 of West Virginia, A. D., one thousand nine hundredand thirteen.

Section 11. No sewerage, drainage, refuse or polluting
2 waters of such kind and amount either of itself or in
2a connection with other matter, as will corrupt, pollute or impair
3 the quality of the water of any spring, pond, lake, river or
4 stream used as a source of water or ice suply by any city, town,
5 village or public institution of water or ice company for domestic
6 use, or render it injurious to health; and no human excrement,
7 shall be discharged into any river, stream, spring, lake, pond or
8 upon the banks or into any feeders thereof, unless such sewerage,
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9 drainage, refuse of polluting matter shall be first purified, so as

10 to render it harmless, in such manner and under such conditions
11 and restrictions as the state board of health may ordain.

Section 12. No county, city and county, city, town, village,
2 district, community, institution, prison, firm or corporation
3 shall deposit, discharge or continue to deposit or discharge, into
4 any stream, river, lake or tributary thereof, or into any other
5 waters, used or intended to be used, for domestic purposes, or in-
6 to or upon any place the surface or subterranean drainage from
7 which may run or percolate into any such stream, river, lake,
8 tributary or other waters, or into any of the waters within the
9 jurisdiction of this state, any sewage, sewage effluent or
10 other substance forbidden so to be deposited or discharged, with-
11 out having an unrevoked permit so to do, as in this act provided;
12 and they may be enjoined from so doing by any court of compe-
13 tent jurisdiction at the suit of any person or municipal corpora-
14 tion whose supply of water for domestic purposes is taken from
15 such stream, river, or other running water at a point below the
16 place of discharge or deposit, or from such lake, or at the suit
17 the state of West Virginia, or at the suit of any municipality,
18 community, county, or city and county, any of the residents of
19 which shall take water from such stream, river or other running
20 water at a point below the place of such discharge or deposit, or

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21 from such lake or reservoir, or whose health shall be menaced by
22 such discharge, or at the suit of the state board of health.

23 Anything done, maintained or suffered, in violation of any
24 provision of this act shall be deemed to be a public nuisance dan-
25 gerous to health and may be summarily abated as such.

Section 13. Whenever any county, city and county, city,
2 town, village, district, community, institution, person, firm or
3 corporation, shall desire to deposit or discharge, or after this
4 act becomes effective to continue to deposit or discharge into any
5 stream, river, lake or tributary thereof, or into any other waters
6 used or intended to be used for domestic purposes, or into or up-
7 on any place the surface or subterranean drainage from which
8 may run or percolate into any such stream, river, lake, tributary
9 or other waters, any sewage, sewage effluent, or other substance
10 forbidden so to be deposited or discharged, or whenever any such
11 county, city and county, city, town, village, district, community,
12 institution, person, firm or corporation shall desire to deposit or
13 discharge, or continue to deposit or discharge any sewage, sew-
14 age effluent, trade wastes or any other animal, mineral or veg-

15 etable matter or substance, offensive, injurious or dangerous to
16 health in any of the waters within the jurisdiction of this state,
17 which is or shall be a menace to public health, he or it shall file
18 with the state board of health a petition for permission so to do,
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19 together with a complete and detailed plan, description and
20 history of the existing or proposed works or system, and puri-
21 fication plant, showing the geographical location with relation to
22 such stream, river, lake, tributary or other waters, and a physical
23 and bacteriological analysis of the substance or substances so to be
24 deposited or discharged. Thereupon, a thorough investigation
25 of the proposed or existing works, system and plant, and all cir-
26 cumstances and conditions by it deemed to be material, shall be
27 made under the direction of the state board of health. As a part
28 of such investigation, and after ten days' notice by mail to the
29 petitioner, a hearing or hearings may be had before said board or
30 an examiner appointed by it for the purpose. At such hearing
31 or hearings witnesses who testify shall be sworn by the person
32 conducting the hearing, and evidence, oral and documentary, may
33 be received, a record of which shall be made and filed with said
34 board. All of the expenses of such investigation, including hear-
35 ings, excepting the compensation of state officers participating
36 therein, shall be borne, and paid as they accrue, by the
37 petitioner.

38 (a- If it shall determine as a fact that the substance
39 being, or to be, discharged or deposited, is such that under
39-a all the circumstances and conditions it will so contaminate or
40 pollute such stream, river, lake, tributary or other waters, as

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41 to render the water unfit for domestic use and endanger the
42 lives or health of human beings or animals, or does, or will
43 constitute a menace to public health, or that under all the
44 circumstances and conditions it is not necessary so to dispose
45 of such substance, shall deny the prayer of such petition; *pro-*
46 *vided, however* that in case such petition shall be for permis-
47 sion to continue to discharge sewage, sewage effluent, storm
48 water, or other matter mentioned in this section from a sewer,
49 storm water or other system permanently constructed, established
50 and operating, prior to the passage of this act, the board may grant
51 to petitioner a temporary and removable permit, authorizing the
52 continuance of such discharge, under such restrictions as in said
53 permit may be specified, to enable it to apoint a commission to

54 investigate and report on the best method of disposal of sewage
55 or other matter mentioned in this section, and petitioner to con-
56 struct and put into operation a new or altered system discharging
57 elsewhere, or so to alter, add to, repair or modify the operation of
58 the existing system that the substance discharge or deposited shall
59 not be such as to cause a contamination or pollution that will en-
60 danger the lives or health of human beings or animals, or constitute
61 a nuisance or a menace to public health.

62 (b). If it shall determine, as a fact, that the substance
63 being, or to be, discharged or deposited, is not such that, under
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64 all the circumstances and conditions, it will so contaminate or
65 pollute such stream, river, lake, tributary or other waters, as to
66 render the waters unfit for domestic use and to endanger the lives
67 or health of human beings, or constitute a menace to public health,
68 and that, under all the circumstances and conditions, it is neces-
69 sary so to dispose of such substance, shall grant to petitioner a per-
70 mit authorizing petitioner so to deposit or discharge, or to con-
71 tinue to deposit or discharge such substance: *Provided, however,*
72 that such permit shall not be construed to authorize any act for-
73 bidden by any provision of the laws of this state relative to the
74 preservation or propagation of fish or relative to the deposit of
75 derbis into the streams of the state, or relative to the obstruction of
76 navigation; and *provided, further,* that all permits issued here-
77 under shall be revocable by the board at any time, or subject to
78 suspension if the board shall determine, as a fact, that the sub-
79 stance discharged or deposited by virtue thereof causes a con-
80 tamination or pollution that endangers the lives or health of hu-
81 man beings, or constitutes a menace to the public health.

Throwing Refuse, Oil or Filth Into Lakes, Streams or Drains.

Section 14. No person shall intentionally throw or deposit
2 upon premises owned by him, or permit to be thrown or deposited,
3 salt water, petroleum, crude oil, refined oil, or a compound, mix-
4 ture, residum of oil or filth from an oil well, oil tank, oil vat or

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5 place of deposit of crude or refined oil, into, or upon the margin
6 of, any lake, river, stream or pond within the state. Such wastes
7 shall be discharged or deposited in fields, so that the liquid por-
8 tions thereof must filter through the soil before reaching the
9 streams.

Privies, Etc., on Banks of Streams.

Section 15. It shall be unlawful to erect construct, excavate

2 or maintain, or cause to be erected, constructed, excavated or
 3 maintained, any privy-vault, cess pool, sewer pipe or conduit, or
 4 other pipe or conduit, for the discharge of impure waters, gas,
 5 vapors, oils, acids, tar or other matter or substance offensive, in-
 6 jurious or dangerous to health, whereby any part of such matter
 7 or substance shall empty, flow, seep, condense and drain into or
 8 otherwise pollute or affect any of the waters intended for human
 9 use or consumption; or to erect or maintain any permanent or
 10 temporary house, camp, or tent, so near to such spring, stream,
 11 river, lake, or other source of water supply, as to cause or suffer
 12 the drainage, seepage, or flow of impure waters, or any other
 13 liquids, or the discharge or deposit therefrom, of any animal,
 14 mineral, or vegetable matter, to corrupt or pollute such waters.

Pollution by Live Stock.

Section 16. It shall be unlawful to cause or permit any
 2 horses, cattle, sheep, swine, poultry or any kind of live stock or
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 3 domestic animals, to pollute the waters, or tributaries of such
 4 waters, used or intended for drinking purposes by any portion of
 5 the inhabitants of this state.

Bathing in Streams.

Section 17. No person shall bathe or wash clothing in any
 2 spring, stream, river, lake, reservoir, pond or well from which
 3 water is taken for domestic use by the inhabitants of the vicinage,
 4 or the inhabitants of any city, town or county, at, or within, any
 5 point for a distance of five miles above the intake or point from
 6 which the waters are taken for domestic use.

Various Nuisances.

Section 18. No person shall drown, or leave, or cause to be
 2 drowned or left, any animal or fowl in any water in the state, or
 3 deposit, or cause to be deposited, a carcass of any dead animal, fowl
 4 or offal from a slaughter-house, butcher's establishment, spoiled
 5 fish, meat, cheese, lard, molasses, grain or other putrid animal or
 6 vegetable substance, or the contents of any privy vault, or any
 7 tins in which food or liquids have been preserved, upon or into or
 8 on the margin of any reservoir, pond, lake, creek, stream, road,
 9 street, alley, field, meadow, public ground, market-place or
 10 common; or, being the owner or occupant or in possession of any
 11 of the places mentioned, knowingly permit any of such things to
 12 remain therein or thereon, to the annoyance or injury of any per-

13 son, for a period of twenty-four hours after knowledge thereof, or

14 after notice from any constable, trustee, police or health officer.

Contents of Vault Deposited.

Section 19. Nothing in the preceding section shall prohibit
2 the deposit of the contents of privy vaults and catch basins into
3 trenches or pits not less than three feet deep excavated in a lot,
4 field or meadow, the owner thereof consenting, outside of the limits
5 of a municipal corporation and not less than one hundred yards
6 distant from a dwelling, well or spring of water, lake, bay, pond,
7 canal, run, creek, brook or stream of water, public road or high-
8 way, provided that such contents so deposited are forthwith covered
9 with at least twelve inches of dry earth; nor prohibit the deposit
10 of such contents in furrows, to be forthwith covered with dry
11 earth by plowing or otherwise; with the consent of the owner or
12 occupant of the land in which such furows are plowed.

Nuisances.

Section 20. Any privy, vault, cesspool, sewer pipe or conduit
2 placed, erected, constructed, excavated or maintained on or near
3 the banks of any river or stream within ten miles above the intake
4 of any water supply used for drinking or domestic purposes in any
5 city, town or village, which shall cause or suffer to be discharged
6 therefrom sewage, garbage, feculent matter, offal, refuse, filth or
7 any animal, mineral or vegetable matter or substance, offensive, in-

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8 jurious or dangerous to health into such river or stream, and any
9 house-boat intended for or capable of being used as a residence,
10 house, dwelling or habitation, which shall for more than one day
11 be morred or anchored in or upon any river or stream within
12 five miles above the intake of any water supply used for domestic
13 or drinking purposes in any city, town or village are hereby de-
14 clared to be public nuisances; and it is hereby made the duty of
15 any and all sheriffs, constables, policemen and health officers to
16 immediately abate such nuisance.

Protection of Watersheds.

Section 21. No municipal or other public or private corpora-
2 tion and no company or person shall hereafter construct, build,
3 establish or operate any railroad, logging road, logging camp or
4 manufacturing plant of any kind, upon, within, or over any water-
5 shed of any public water supply system, unles such coporation,
6 company, or person shall protect the water supply from pollution
7 by such sanitary precautions as shall be approved by the state board
8 of Health, and any such corporation, company or person intending
9 to construct, build or establish or operate any railroad, logging

10 road, logging comp or manufacturing plant of any kind upon or
11 within the watershed of any public water supply system, shall fur-
12 nish the State Board of Health with detailed plans and specifica-

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13 tions of the sanitary precautions to be taken, to be first approved
14 by the board.

Section 22. Nothing in this act shall be held or construed to
2 prevent the owner or operator of any coal mine in the state from
3 draining the waters that collect in the mine, into any river or
4 stream, and it shall be lawful to drain, cast or discharge such
5 waters into any river or stream in the state, on or near which the
6 mine is situated, whenever necessary to properly drain the mine:
7 *Provided*, the mine from which such waters are drained is kept
8 in a sanitary condition, and the waters to be drained from any
9 mine are not in any way, at or in said mine or on the premises con-
10 trolled by the mine owner or operator, contaminated or polluted
11 by animal excreta, or animal or vegetable substances or matter.
12 The members of the State Board of Health and its agents shall
13 have the right to enter any coal mine and mining premises in the
14 stated at all seasonable times to inspect the same to ascertain if the
15 provisions of this act are being complied with, and said board shall
16 have the right to prevent any coal mine owner or operator from
17 draining any waters which are polluted or contaminated with
18 animal or vegetable substance or matter, or any waters from any
19 mine which is in an unsanitary condition, into any stream or river
20 in the state.

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Water Closets, How Constructed and Located.

Section 23. All human excreta in towns and cities (incorpor-
2 ated or unincorporated) must be disposed of in sewers, cesspools
3 or vaults. All cesspools and vaults must be made fly-proof and all
4 vaults must be cleaned once in each month between the months of
5 May and October of each year, and at such other times as the State
6 Board of Health or the local health officer shall direct. All cess-
7 pools, vaults, privies or water-closets shall be located at least one
8 hundred feet from any well or cistern, unless the size of the prem-
9 ises precludes such location.

Must Not Drain in to Water Supply.

Section 24. No privy, water-closet, pig-pen, slaughter-house,
2 chicken-house, stable or barn shall be so located that the drainage

3 therefrom shall enter any well, cistern, stream, river or other source
4 of water used for domestic purposes.

Lien for Sewer Connections Made by City.

Section 25. Any health officer or governing body of any city,
2 town or sanitary district, served with a sewerage system, having
3 served written notice upon the owner, or reputed owner, of real
4 estate upon which there is a dwelling house, and such owner, or
5 reputed owner, after thirty days, having refused, neglected or failed
6 to connect such dwelling house, together with all toilets, sinks and
7 other plumbing therein, properly vented, and in a sanitary manner

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8 with the adjoining street sewer, may connect the same at a reason-
9 able cost, and the person doing said work, at the request of such
10 health officer or governing body, shall have a lien upon the real
11 estate for his work done and materials furnished, and such work
12 done and materials furnished shall be held to have been done and
13 furnished at the instance of such owner, or reputed owner, or person
14 claiming or having an interest therein.

Section 26. Any member of the State Board of Health and
2 of any county or municipal board of health, or the agents of any
3 board, and any health officer shall have the right, at all seasonable
4 times, to enter any building, factory, plant, structure and premises
5 in the state to ascertain whether danger or probable cause of pollu-
6 tion of waters exists, and whether the provisions of this act, and
7 any rules, regulations and orders of the State Board of Health or of
8 any county or municipal board of health, are being complied with.

Publications of Orders, Rules and Regulations.

Section 27. The publication of an order, rule or regulation
2 made by the State Board of Health under the provisions of this act
3 in any newspaper published in the city, town or county in which
4 such order, rule or regulation is to take effect, or, if no newspaper is
5 published in any city, town or county, the posting of a copy of such
6 order, rule or regulation in a public place in such city, town or
7 county, shall be legal notice to all persons, and an affidavit of such
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8 publication or posting by the person causing such notice to be pub-
9 lished or posted, filed and recorded, with a copy of the notice, in
10 the office of the county court of the county, or recorder or clerk of
11 such city or town shall be accepted as evidence of the time at which,
12 and the place and manner in which, the notice was given.

Bi-ennial Reports.

Section 28. The State Board of Health shall bi-ennially make
2 a report to the legislature, through the Governor, of its doings for
3 the preceding period, recommending measures for the prevention of
4 the pollution of waters and for the removal of polluting substances
5 in order to protect the public health, and recommend any legisla-
6 tion or plans for systems of main sewers necessary for the preserva-
7 tion of the public health and for the purification and prevention of
8 pollution of the rivers, ponds, lakes, springs and inland waters of
9 the state. It shall also inform the Attorney General of any viola-
10 tion of law relative to the pollution of water supplies and inland
11 waters. All reports so made shall be published, and copies supplied
12 to the public bodies and officers of the counties, towns and cities.

Section 29. The provisions of this act are in the public in-
2 terest and they shall be liberally construed. The State Board of
3 Health, the attorney general of the state, all county and municipal
4 boards of health and health officers and all prosecuting attorneys
5 in the state are specifically charged with the enforcement of the

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6 provisions of this act, and neglect of this duty by any such officer
7 shall be sufficient ground for his removal from office. Judges of
8 all criminal, intermediate and circuit courts in the state, in which
9 grand juries are impaneled, shall at least twice in each year call the
10 attention of a grand jury to the things herein forbidden.

Section 30. Any person who or corporation which or executive
2 officer or manager of any corporation which violates any of the
3 provisions of this act, shall in each instance be guilty of a mis-
4 demeanor, and shall, upon conviction, be fined not more than one
5 thousand dollars, and any individual convicted may, at the discre-
6 tion of the court, be imprisoned for not more than ninety days, for
7 each offense. Any continuing act which is herein forbidden, shall
8 for each day constitute a separate and distinct offense.

Penalties.

Section 31. Any person who shall violate or refuse or neglect
2 to conform to any sanitary rule, order or regulation prescribed by
3 the State Board of Health for the prevention of the pollution of
4 springs, streams, rivers, lakes, reservoirs or other waters used or
5 intended to be used for domestic consumption shall be guilty of a
6 misdemeanor and, upon conviction thereof, shall be fined not more
7 than one hundred dollars. Justices of the peace shall have con-
8 current original jurisdiction with the circuit and criminal courts

9 for the trial of persons violating any of the provisions of this
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10 section and of section seventeen of this act, but an appeal shall lie
11 from the judgment of a justice to the circuit court of the county.
12 Proceedings under this act before a justice of the peace shall, in all
13 respects conform to the provisions of chapter fifty of the Code of
14 West Virginia, in so far as the same is applicable to criminal cases.

Penalties for Offenses Under This Act.

Section 32. Whoever is aggrieved by any order of the State
2 Board of Health made under sections five and six, or any order
3 refusing, granting or revoking any permit under section thirteen of
4 this act, may by petition have such order of the State Board of
5 Health reviewed by the circuit court of the county in which the
6 order is intended to be effective. If the order is effective in more
7 than one county, the circuit court of any county in which it is
8 effective shall have jurisdiction. The circuit court shall review
9 the proceedings of the State Board of Health upon the papers,
10 documents and evidence upon which the State Board of Health
11 heard the matter, and the original papers shall be transmitted to
12 the clerk of the reviewing court for that purpose. An appeal shall
13 lie from the action of any circuit court reviewing any such order to
14 the Supreme Court of Appeals of the state. The rules governing
15 appeals in civil cases from a circuit court to the Supreme Court of
16 Appeals, shall control any such appeal to the Supreme Court of

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17 Appeals of the state, except that any case arising hereunder shall
18 have precedence over all civil cases and shall be heard and disposed
19 of within ninety days after the appeal is allowed; otherwise the
20 appeal shall stand dismissed. Pending any review by the circuit
21 court of the supreme court of appeals, the order of the state board
22 of health appealed from shall be effective. The circuit court or the
23 supreme court of appeals may set aside or modify any order made
24 by the state board of health and make such order as to the circuit
court shall appear proper in the premises.

Terms Defined.

Section 33. When used in this act, the terms "Waters of the
2 State" shall include all springs, ponds, streams, wells and bodies
3 of surface or ground water, whether natural or artificial, within
4 the boundaries of this state or subject to its jurisdiction. "Sewer-
5 age" shall include humand and animal excretions, street wash, and
6 all domestic and manufacturing waste. "Waterworks," "water

7 supply" and "water supply system" shall include the courses and
8 their surroundings from which water is supplied for drinking or
9 domestic purposes, together with all structures, channels, and
10 appurtenances by means of which it is prepared for use and de-
11 livered to consumers; excepting only the piping and fixtures in-
12 side the buildings served. "Sewerage system" shall include the
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13 channels by which sewerage is collected and disposed of, together
14 with the body of water into which it is directly discharged, and
15 all structures and appurtenances, made use of in its collection and
16 preparation for discharge in a satisfactory condition into the
17 waters of the state; excepting only the plumbing system inside the
18 individual buildings served. For the purposes of this act, any
19 sewer, no matter what its length and size may be, shall be deemed a
20 sewerage system.

Section 34. The sum of twenty-five thousand dollars,
2 (\$25,000.00), or so much thereof as may be necessary, is hereby
3 appropriated out of the funds in the treasury not otherwise ap-
4 plied, for the purpose of carrying this act into effect, payable up-
5 on the orders of the State Board of Health upon such vouchers
6 and information as it may prescribe.

Section 35. Sections 20 c. I., 20 d. I., 20 d. II. and 20d. III.
2 (being serial sections five thousand three hundred and sixty-four;
3 five thousand three hundred and sixty-five; five-thousand three hun-
4 dred and sixty-six; and five thousand three hundred and sixty-
5 seven,) of chapter one hundred and fifty of the Code of West
6 Virginia, A. D., 1913, are hereby repealed, and the remaining
7 one hundred and two sections of said chapter are hereby renumber-
8 ed in the order in which they appear in the said code, from one to
9 one hundred and two both inclusive, and the sections of this act

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10 are added to said chapter and numbered from one hundred and
11 three to one hundred and thirty-six both inclusive. All other acts
12 or parts of acts inconsistent or in conflict with the provision of
13 this act are hereby repealed.

Senate Bill No. 13

[BY MR. KEIM.]

A BILL to revise, amend and re-anact Chapter five of the Code of West Virginia, concerning offenses relating to elections, the limitation of campaign expenditures, providing for the public printing and distribution of campaign pamphlets, and prescribing penalties for corrupt practices.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That at all primary elections for the nomination of candidates and for the election of party committeemen and delegates to political conventions, and at all other elections for public officers (except elections for local officers in cities of less than 2000 population, and incorporated boroughs of less than 2000 population, and for school district officers) records of receipts and expenditures for political purposes shall be kept by, or on behalf of all candidates; sworn statements of such receipts and expenditures shall be made and filed as public records by all candidates and by their political agents and the treasurers of all political committees; and such receipts and expenditures shall be subject to the regulations and provisions of this act.

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Definition of Terms.

Sec. 2. (1) The term "election" shall apply to all primary elections, to all other elections, general or special, by the legal voters of this State or its sub-divisions, and to elections by the Legislature or either house thereof.

(2) The term "candidate" shall apply to any person whose name is printed on an official ballot for public office, and to any person who has been proposed for nomination or election to public office, and who either tacitly or expressly consents so to be considered, except candidates for President and Vice President of the United States, and presidential electors.

(3) The term "political agent" shall apply to any person designated by any candidate before any election to receive and disburse money in his behalf or to assist otherwise in his candidacy, and also to any person who does so receive and disburse money in behalf of any candidate, whether so designated or not.

(4) The term "political committee" shall apply to any two or more natural persons acting together or co-operating to aid or take part in the nomination or election of any candidate for

19 public office, or to aid or promote the success or defeat of any
20 political party or principle at any election, or any proposition sub-
21 mitted to vote at a public election.

22 (5) The term "public office" shall apply to any elective
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23 office provided for by the Constitution or laws of the United
24 States or of the State of West Virginia to which a salary or other
25 compensation attaches.

Treasurer of Political Committee.

Sec. 3. Every political committee shall appoint and
2 maintain a treasurer to receive, keep and disburse all sums of
3 money which may be collected or received by such committee or by
4 any of its members, for election expenses; and unless such treas-
5 urer is first appointed and thereafter maintained, it shall be
6 unlawful for a political committee or any of its members to
7 collect, receive or disburse money for any such purposes. All
8 money collected or received by any political committee or by any
9 of its members for election expenses shall be paid over to and made
10 to pass through the hands of the treasurer and shall be disbursed
11 by him; and it shall be unlawful for any political committee or
12 any of its members to disburse any money for election expenses
13 unless such money shall have been paid to and disbursed by the
14 treasurer.

15 One person may be designated to act as treasurer for two
16 or more political committees and candidates.

Notice of Appointment.

Sec. 4. No person shall act as treasurer of any political
2 committee or as political agent for any candidate for a state

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3 office unless a written statement designating him as such treasurer
4 or political agent shall be filed, before the election for which he
5 is to act with the Secretary of State. Designations of treasurers
6 and political agents acting in congressional districts and in other
7 districts extending into more than one county shall be filed with
8 the county clerk of each county in said district. Designations of
9 treasurers and political agents acting for candidates for county
10 offices and for other offices not otherwise provided for, shall be
11 filed with the county clerk. In the case of treasurers and political
12 agents acting for candidates for city offices, such designations
13 shall be filed with the city clerk or recorder.

Accounts and Vouchers.

Sec. 5. Every candidate, political agent and the treasurer of every political committee shall keep detailed accounts of all money, or its equivalent, received by him and of all expenditures, disbursements made and liabilities incurred by such candidate, agent or political committee for political purposes or by any of the officers or members of such committee or any person acting under its authority or on its behalf.

Sworn Statements.

Sec. 6. Not less than seven nor more than fifteen days before each primary and election, and again within thirty days after each primary and election, every candidate for public S. B. No. 13.]

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office (except for local offices in cities of less than 2000 population, incorporated boroughs of less than 2000 population, and for school district offices) and every political agent and the treasurer of every political committee shall file with the officers hereinafter prescribed a detailed itemized statement subscribed and sworn to before an officer authorized to administer oaths, setting forth all financial transactions in connection with such primary or election. Such statement shall show each and every sum of money or other thing of value contributed or advanced; the name of each person, firm, association or committee by whom it was contributed or advanced; the amount and purpose of every expenditure made or liability incurred, and the name of each person, firm association or committee to whom such expenditure was made or liability incurred, with dates of each transaction.

Any unexpended balance remaining in the hands of the treasurer of any political committee at the time of making the statements herein provided for, shall be properly accounted for in said statement and shall appear as a balance in the next following report of such treasurer or his successor in office.

Such sworn statements shall be filed with the Secretary of State by candidates for State and other offices elected by or for a district covering more than one county, with the county clerk by candidates for offices elected by or for a county and by candidates

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for other offices not otherwise provided for, and with the clerk or recorder of the city in the case of candidates for city officers. Such statements shall be filed by political agents and the treasurers of political committees with the officers with whom their re-

31 spective designations as political agents or treasurer of political
32 committees were filed.

33 Nothing in this act shall be construed so as to make it
34 unlawful for any political party committee or treasurer there-
35 of to raise funds by any method not prohibited herein and use the
36 same for the payment of any debts or obligations owing by such
37 political committee or treasurer at the time of the passage of this
38 act.

Blank Forms, Preservation of Statements.

Sec. 7. Blank forms of all financial statements required
2 under this act shall be prepared by the Secretary of State; and
3 copies thereof, together with a copy of this act, shall be furnish-
4 ed through the county clerk or otherwise, as the Secretary of
5 State may deem expedient, to all treasurers of political committees
6 to all political agents and to all candidates for nomination or
7 election upon the filing of petitions for nomination, and to all
8 other persons required by law to file such statements who apply
9 therefor.

10 All statements filed in accordance with this act shall be
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11 received. endorsed and filed by the Secretary of State, county
12 clerks and city clerks or recorders; and such officers shall
13 promptly notify in writing any person or persons who fail to file
14 a statement as required by law, or who file a statement which does
15 not conform to law, and further notify such person or persons to
16 comply with this act. All statements filed in accordance with the
17 provisions of this act shall be preserved for one year after the
18 election to which they relate; and during said period shall be
19 open to public inspection. A summary of such statements shall be
20 made and preserved in the permanent archives of the respective
21 offices and published with the regular reports of such offices.

Penalties for Failure to File Statements.

Sec 8. Any candidate, political agent or treasurer of
2 a political committee who shall fail to file a sworn itemized
3 statement as above provided, within the time required, shall be
4 guilty of a misdemeanor; and upon conviction shall be fined not
5 more than one hundred dollars or imprisoned in the county jail
6 for not more than six months, or both, at the discretion of the
7 court.

8 Forty days after any such primary or election the Secre-
9 tary of State, county clerk or city clerk or recorder, as the
10 case may be, shall give notice of any failure to file such a state-

ment by any candidate, political agent or treasurer of a political
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committee, to the Prosecuting Attorney of the county where such
delinquent resides; and such Prosecuting Attorney shall proceed
to prosecute for such offences.

No candidate nominated at a primary election who has failed to make a sworn statement as required by this act shall have his name placed on the official ballot for the ensuing election, unless there has been filed by or on behalf of said candidate, and by his political agent, if any, the financial statement relating to nominations required by this act; and it shall be unlawful to issue a commission or certificate of election or to administer the oath of office to any person elected to any public office who has failed to file a sworn statement as required by this act; and no person shall enter upon the duties of his office until he has filed such statement, nor shall he receive any salary or emolument for any period prior to the filing of such statement.

Restrictions on Contributions.

Sec. 9. No officer of any corporation, whether incorporated under the laws of this or any other State or foreign country, except corporations formed for political purposes, shall, give or lend, or authorized to be paid, given or loaned, any money or other thing of value belonging to such corporations to any candidate, political agent or political committee, for the payment of any
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primary or election expenses whatever. No person shall solicit or receive such payment or contribution.

Lawful Expenditures.

Sec. 10. No candidate, political agent or treasurer of a political committee shall pay, give or lend, or agree to pay, give or lend, either directly or indirectly, any money or other thing of value, for any election expenses, except for the following purposes:

First—For the rent, maintenance and furnishing of offices to be used as political headquarters; and for the payment of necessary clerks, stenographers, typewriters, janitors and messengers actually employed therein.

Second—For printing and distributing books, pamphlets, circulars and other printed matter relating to political issues and candidates and painting, printing and posting signs, banners and other advertisements.

14 *Third*—For renting and decorating halls for public meet-
15 ings and political conventions, for advertising public meetings,
16 and for the payment and transportation of speakers and musi-
17 cians at such meetings.

18 *Fourth*—For the necessary traveling expenses of candidates,
19 political agents and committees, and for stationery, postage, tele-
20 grams, telephone, express, freight and public messenger service.

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21 *Fifth*—For preparing, circulating and filing petitions for
22 nomination of candidates.

23 *Sixth*—For examining the lists of registered voters, investi-
24 gating the right to vote of the persons listed therein, and conduct-
25 ing proceedings to prevent unlawful registration or voting.

26 *Seventh*—For conveying infirm or disabled voters to and from
27 the polls.

28 *Eighth*—For the employment of challengers and watchers at
29 elections not to exceed two at each election precinct. Every lia-
30 bility incurred and payment made shall be at the rate and for a
31 total amount which is proper and reasonable and fairly commen-
32 surate with the services rendered.

Limitation of Expenditures.

Sec. 11. No payments shall be made and no liabilities shall
2 be incurred by or on behalf of any candidate for office in this State
3 to aid in securing his nomination and election, which shall in
4 the aggregate exceed the amounts herein provided, namely: for
5 candidates for United States Senator and Governor, three thou-
6 sand dollars for the primary and three thousand dollars for the
7 final election.

8 For candidates for other offices for which salary or other com-
9 pensation amounting to more than \$1,000 a year is paid, not more
10 than ten per cent. of the aggregate salary or estimated compensa-
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11 tion for the term for which such officer is to be elected for the pri-
12 mary and a like amount for the final election.

13 Any candidate may delegate to a political agent or a political
14 committee, in writing duly subscribed by him, the expenditure of
15 any portion of the total expenses authorized to be incurred by him
16 or on his behalf; but the aggregate of all expenses made and in-
17 curred by such candidate, by any political agent on his behalf and
18 by any political committee on his behalf shall not exceed the
19 amounts hereinbefore provided.

20 No payments shall be made and no liability shall be incurred
21 by any political agent or political committee which shall exceed
22 in the aggregate the sum of the amounts theretofore delegated to
23 such committee by the candidate in writing as herein provided.

24 No candidate at a primary election shall be permitted to
25 employ or pay more than two canvassers or political agents at each
26 election precinct on the day of the primary election or to exceed
27 one canvasser in each precinct on the day of the final election.
28 Each party having a party ticket in the field may, however, have
29 two canvassers or election agents at each district.

Corrupt Practices.

Sec. 12. The following persons shall be deemed guilty of
2 corrupt practices and upon conviction shall be punished in accord-
3 ance with the provisions of this act:

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4 1. Any person, other than a political agent or a member of
5 a political committee, duly appointed and designated as provided
6 in this act, who shall solicit from any candidate for nomination
7 or election to any public office, any money, gift, contribution,
8 emolument, or other valuable thing, for the support, assistance,
9 benefit or expenses of any political club, company, or organization,
10 or for the expenses of any primary or election campaign.

11 2. Any person who shall demand, solicit, ask or invite any
12 candidate to make any contribution or incur any obligation to any
13 religious, charitable or fraternal cause or organization other than
14 political committees duly designated under the provisions of this
15 act, or to buy tickets to any entertainments or ball, or to subscribe
16 or pay for space in any book, program, periodical or other publica-
17 tion; or any candidate who shall make or promise any such pay-
18 ment or contribution with the apparent hope or intent to influence
19 the result of any election: *Provided*, that this paragraph shall not
20 apply to the solicitation of any business advertisements in a period-
21 ical in which such candidate regularly advertised prior to his can-
22 didacy, nor to ordinary business advertising, nor to the regular and
23 normal payments to any religious, charitable or other organization
24 to which he may have been a contributor for more than six months
25 before his candidacy.

26 3. Any person who shall, directly or indirectly, by himself
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27 or by any other person on his behalf, make use of, or threaten to
28 make use of any force, violence or restraint, or inflict, or threaten

29 to inflict any damage, harm or loss, upon or against any person, or
30 by any other means attempt to intimidate or exert any undue in-
31 fluence, in order to induce such person to vote or refrain from
32 voting, or on account of such person having voted or refrained from
33 voting, at any election, or who shall by abduction, duress or any
34 fraudulent device or contrivance, impede or prevent the free exer-
35 cise of the suffrage by any elector, or shall thereby compel, induce,
36 or prevail upon any elector either to vote or refrain from voting
37 for or against any particular candidate or measure.

38 4. Any person who, being an employer, or acting for or on
39 behalf of any employer, shall post or otherwise exhibit, or cause to
40 be posted or exhibited in or about his place or establishment, or
41 shall distribute or cause to be distributed to any of his employees
42 any written or printed matter of a political nature, or shall give any
43 other notice or information to his employees, containing any threat,
44 either express or implied, intended or calculated to influence the
45 political view or actions of his workmen or employees.

46 5. Any person who shall, knowingly make or publish, or
47 cause to be made or published, any false statement in regard to any
48 candidate which statement is intended or tends to affect any voting
49 at any election whatever.

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50 6. Any person who shall pay any owner, publisher, editor or
51 employee, or any newspaper or other periodical to advocate or
52 oppose editorially, any candidate for nomination or election, or
53 any political party, or any measure, to be submitted to the vote of
54 the people; and any owner, publisher, editor, or employee who shall
55 solicit or accept such payment.

Practices Forbidden.

Sec. 13. 1. No person shall publish, issue or circulate, or
2 cause to be published, issued or circulated, any letter, circular,
3 placard, or other publication tending to influence voting at any
4 election, which fails to bear on its face the name and address of
5 the author and of the printer or publisher, and of the candidate
6 in whose behalf the same is published, issued or circulated.

7 2. No owner, publisher, editor or employee of a newspaper
8 or other periodical shall insert, either in its advertising or reading
9 columns any matter, paid for or to be paid for, which tends to
10 influence, directly or indirectly, the voting at any election what-
11 ever, unless it is distinctly designated as a paid advertisement,

12 and state the name of the person authorizing its publication and
13 the candidate in whose behalf it is published.

14 3. No person shall solicit, orally or by letter, or be in any
15 manner concerned in soliciting any assessment, contribution or
16 payment for any party or political purpose whatever from any
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17 officer or employee of the State or a political sub-division thereof.

18 4. No person shall, in any room or building occupied for the
19-23 discharge of official duties by an officer or employee of the State
24 or a political subdivision thereof, solicit orally or by written com-
25 munication delivered therein, in any other manner, any contribu-
26 tion of money or other thing of value for any party or political pur-
27 pose whatever, from any officer or employee of the State or a
28 political subdivision thereof. No officer, agent, clerk or employee
29 of the State or any political subdivision thereof, who may have
30 charge or control of any building, office or room, occupied for
31 any official purpose, shall permit any person to enter the same for
32 the purpose of therein soliciting or delivering written solicitations
33 for or receiving from, or giving notice of any political assessments
34 to any officer or employee of the State or a political subdivision
35 thereof.

Campaign Pamphlets.

Sec. 14. Any candidate for nomination or election to any
2 State office or to any office filled by election from a district com-
3 prising more than one county, or any person or persons authorized
4 by any candidate, may file with the Secretary of State, for publica-
5 tion in pamphlet form, as herein provided, not later than the thir-
6 tieth day before the primary or other election a typewritten or
7 printed statement, duly signed with or without his portrait cut
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8 of suitable size for such pamphlet, stating the reasons why he
9 should be nominated or elected and containing his platform or
10 declaration of principles.

11 Any person or persons opposing the nomination or election of
12 any such candidate may, not later than the thirtieth day before
13 such primary or other election, file with the Secretary of State a
14 typewritten or printed statement, duly signed and verified, stating
15 the reasons why such candidate should not be nominated or elected,
16 such statement to be accompanied by proof, by affidavit or sheriff's
17 return, that such candidate has been served personally with a true
18 copy thereof.

19 The statement and portrait for each candidate for a State
20 office shall not occupy to exceed two pages as printed in the pamph-
21 let and for each other candidate not to exceed one page; and any
22 statements opposing any candidate shall in the aggregate not ex-
23 ceed the space allowed to such candidate, except that additional
24 space may be allowed to any candidate or proposition or the oppo-
25 nents of any candidate or proposition as provided in section 18 of
26 this act.

27 Not later than the thirtieth day before any election, any per-
28 son or persons may file with the secretary of state for publication
29 in pamphlet form, duly signed and verified, advocating or opposing
30 any constitutional amendment, act of the legislature or public
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31 policy question to be submitted to the vote of the electors of the
32 state at such election. Each statement advocating or opposing
33 any such proposal to be voted on by the electors shall not occupy
34 to exceed two pages as printed in the pamphlet, except as provided
35 in section 18 of this act.

Printing and Distributing Pamphlets.

Sec. 15. Not later than the twentieth day before each pri-
2 mary or other election, the secretary of state shall compile, pre-
3 pare and cause to be printed the statements and portraits filed with
4 him for and against the candidates and proposals to be voted there-
5 at, in pamphlet form for each senatorial district, the statements
6 relating to the several candidates to be printed in the order in
7 which the officers appear on the official ballot, statements opposing
8 a candidate or proposal to follow next after statements in favor
9 thereof.

10 At least ten days before each primary or other election, the
11 secretary of state shall cause to be mailed to every registered
12 voter a copy of the pamphlet containing the statements for and
13 against candidates and proposals to be voted for in each senatorial
14 district at such election. The secretary of state is authorized and
15 empowered, in his discretion, to require county clerks and boards
16 of election commissioners, or any of them, to provide for addressing
17 and mailing such pamphlets to the registered voters in their re-

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18 spective counties and cities, the expense thereof to be paid by the
18a respective counties and cities, the expense thereof to be paid by the
19 State on vouchers certified by the county clerk or boards of election
20 commissioners and approved by the secretary of state. The sev-

21 eral clerks or boards who keep the books of registration of voters
22 provided for by the laws of this state shall, not later than the
23 twentieth day before each primary or other election, deliver to the
24 county clerks of their respective counties a list of the registered
25 voters in their respective districts with postoffice addresses; and
26 the county clerks shall forward to the secretary of state such lists
27 or certified copies thereof as may be required by the secretary of
28 state.

Campaign Pamphlets for Counties.

Sec. 16. In each county of the state, not later than twenty
2 days before any primary or other election, any candidate for nomi-
3 nation or election, to any county office, or any persons authorized
4 by such a candidate may file with the county clerk a statement
5 not to exceed one page as printed in the pamphlet, with or without
6 his portrait cut, stating the reasons why he should be nominated
7 or elected.

8 Any person or persons opposing the nomination or election of
9 any such candidate may, not later than the thirtieth day before
10 such primary or other election, file with the county clerk a type-
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11 written or printed statement, duly signed and verified, stating the
12 reasons why such candidate should not be nominated or elected,
13 such statement to be accompanied by proof, by affidavit or sheriff's
14 return, that such candidate has been served personally with a true
15 copy thereof.

16 Statements may also be filed in the same manner by any
17 person or persons advocating or opposing any bond issue, franchise,
18 or other measure or question of public policy to be submitted to
19 the vote of the electors in such counties.

20 Such county clerks, not later than fifteen days before the
21 primary or other election, shall cause to be printed in printed form
22 the statements and portrait cuts filed with them; and not later
23 than ten days before the primary or other election shall cause such
24 pamphlets to be mailed to every registered voter within their re-
25 spective counties in accordance with the provisions as to printing
26 and mailing pamphlets by the secretary of state. The expense
27 for printing and mailing such pamphlets prepared under this sec-
28 tion shall be paid by the county on vouchers approved by the
29 county clerk, in the manner prescribed by law for paying bills by
30 such counties.

Style of Pamphlets; Responsibility.

Sec. 17. The pages of the pamphlets required by this act
2 shall be six by nine inches in size, and the printed matter therein
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3 shall be set in eight point Roman faced type, single leaded, and
4 twenty-five picas in width, with proper heads. In the foot margin
5 of every page of such pamphlets shall be shown the authority for
6 the statements therein, as "This information furnished by (name
7 of candidate or of authorized political committee or other person
8 or opponents)," as the case may be.

9 Nothing in this act shall be deemed to make such statements
10 or the authors thereof free or exempt from any civil or criminal
11 action or penalty, because of any false or slanderous statement offer-
12 ed for printing or contained in said pamphlets. The person or per-
13 sons composing or presenting such statements shall be deemed the
14 authors and publishers thereof.

Payment for Space in Pamphlets.

Sec 18. For each page of space in the pamphlets herein pro-
2 vided for, the candidates or other persons filing the statements
3 shall pay as follows: For statements advocating or opposing
4 measures or questions of public policy to be voted on by the
5 electors, a sum sufficient to pay all the expenses for paper and
6 printing to supply one copy to each voter, the amount to be de-
7 termined by the officer with whom such statements are filed; for
8 the office of the United States senator, two hundred dollars; for
9 the office of representatives in congress, one hundred dollars; for
10 the office of governor, one hundred dollars; for any other elective
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11 state office, including the office of judge of the supreme court of
12 appeals, seventy-five dollars; for the office of State Senator, fifty
13 dollars; for the office of member of the house of delegates, twenty-
14 five dollars; for the office of circuit judge, fifty dollars; for all
15 other offices at the rate of one dollar for each five hundred voters
16 in the district to be covered. Any candidate may have additional
17 space at the rate of one hundred dollars per page, but no payment
18 shall be received for less than a full page; provided that not more
19 than three additional pages shall be allowed to any one candidate.
20 The limitations of space for statements advocating or opposing

21 measures or question of public policy to be voted on by the electors
 22 shall be the same as those prescribed for statements advocating
 23 or opposing the nomination or election of candidates and the
 24 rates charged for additional space in all such cases shall be suf-
 25 ficient to pay all expenses for paper and printing to supply one
 26 copy to each voter, the amount to be determined as provided in
 27 this section. All payments required by this section shall be made
 28 to the secretary of state, or county clerk, as the case may be,
 29 when the statements are offered for filing; and shall be paid by
 30 such officers into the general fund in the state or county treasury
 31 as the case may be, and no statements shall be printed unless the
 32 payments herein required are made to the proper officer. Any

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33 payment made under this section shall be exclusive of other ex-
 34 penditures allowed under this act.

35 Any number of candidates may file joint statements to be
 36 published in such pamphlets; and the space occupied by such joint
 37 statements shall be paid for at the highest rate chargeable to any
 38 of the candidates joining therein.

39 Additional copies of any such pamphlet shall be furnished
 40 to candidates and political committees, who before the completion
 41 of the compilation thereof, deposit with the officer charged with
 42 its printing, a sum to cover the cost of paper and printing for
 43 the number desired.

Penalties.

Sec. 19. (1) Any person who shall be guilty of any corrupt
 2 practices shall, on conviction, be fined not more than five thousand
 3 dollars or imprisoned in the penitentiary not less than one year
 4 nor more than three years, or both, at the discretion of the court.
 5 Any person convicted of any corrupt practices shall also be dis-
 6 qualified from voting or from holding any office or employment
 7 during a period of seven years from the date of conviction, and if
 8 elected to or occupying any public office or employment such office
 9 or employment shall be vacated from the date of conviction.

10 (2) Any person who shall violate any of the other pro-
 11 visions of this act for the violation of which no other penalty is
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12 provided shall, on conviction, be fined for the first offense not more
 13 than five hundred dollars or imprisoned in the county jail not

14 more than six months, or both, at the discretion of the court. Any
15 person convicted of a second or subsequent offense shall be fined
16 not more than one thousand dollars, or imprisoned not more than
17 one year, or both, at the discretion of the court; and shall also be
18 disqualified from voting or holding any public office or employ-
19 ment during a period of three years from the date of conviction,
20 and if elected to or occupying any public office or employment such
21 office or employment shall be vacated from the date of conviction.

22 Any corporation which shall violate any provision of this act,
23 or shall reimburse or compensate in any manner whatever any
24 person who shall have given, loaned or promised any money or
25 other thing of value in violation of this act, on conviction thereof,
26 for the first offense, shall be fined not less than one thousand
27 (1,000) nor more than ten thousand (10,000) dollars; and upon
28 conviction of any second or subsequent offense, if organized under
29 the laws of this state, shall forfeit its charter and all rights,
30 privileges and immunities thereunder, or if organized under the
31 laws of another state or country, shall forfeit all rights to carry
32 on any business in this state. The officers, directors, agents and
33 attorneys of such offending corporations under this section upon

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34 conviction shall be punished as other offenders under this act are
35 punished.

Judicial Inquiry.

Sec. 20. At any time within sixty days after any primary
2 or election the attorney general, any prosecuting attorney, any
3 candidate voted for at such election or any one hundred qualified
4 voters, upon giving bonds to indemnify the person whose election
5 is contested, from all costs, attorneys' fees and expenses incurred
6 by him in defending his title to office in the event that such per-
7 son's title to his office is upheld, may present to any circuit judge
8 a petition setting forth under oath, upon information or personal
9 knowledge, that corrupt and illegal practices contrary to the pro-
10 visions of this act were committed in connection with such election,
11 naming any candidate as defendant and praying for a judicial in-
12 quiry into the alleged facts.

13 If such judge shall be of the opinion that the interests of pub-
14 lic justice require such a judicial inquiry, he shall authorize such
15 inquiry, order reasonable notice of such petition to be given to the
16 defendant, appoint special counsel to conduct the inquiry, and

17 notify the president of the supreme court of appeals of such peti-
18 tion. The president of the supreme court of appeals shall desig-
19 nate two circuit judges to hear such petition and conduct the in-
20 quiry.

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21 Such petition shall be tried without a jury; the petitioner or
22 petitioners and all candidates at such election shall be entitled to
23 appear and be heard as parties; and the court shall have power to
24 compel the attendance of witnesses and the production of books
25 and papers which are relevant and material.

Certification of Findings.

Sec. 21. In the case of a judicial inquiry into corrupt and
2 illegal practices connected with the election of presidential elec-
3 tors, a United States senator or a member of the United States
4 house of representatives, the opinion and determination of the
5 of the court shall be certified to the governor, who shall transmit
6 the same to the proper authorities of the United States govern-
7 ment.

8 In the case of a judicial inquiry into corrupt and illegal prac-
9 tices connected with the election of any officer of the executive
10 department of the state of West Virginia or of any member of the
11 legislature, the opinion and determination of the court shall be
12 certified to the speaker of the house of delegates or (in a case
13 referring to a member of the state senate) to the President of the
14 senate.

15 In the case of a judicial inquiry into corrupt and illegal prac-
16 tices connected with the election of any other public officer, the

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17 trial judges shall certify to the governor their joint decision and
18 judgment with reference to the existence of corrupt and illegal
19 practices, the effect of any such practices on the validity of the
20 election, and the guilt or innocence of any candidate or his political
21 agent. If any such joint decision shall decide that any successful
22 candidate so petitioned against, in person or through his political
23 agent, had committed corrupt or illegal practices, the election of
24 such candidate shall be void; and if any such joint decision shall
25 decide that corrupt and illegal practices existed at the election, with
26 or without the action, connivance or knowledge of the candidate
27 or his political agent, to such an extent as seriously to affect the
28 result, such election shall be held void. In case of any election so

29 held to be void, the governor shall, within ten days after the receipt
30 of such decision, issue a writ for a new election, to be held within
31 forty days after the issuance of such writ.

32 If the trial judges at any such inquiry differ in their opinions
33 as to whether or not the candidate has committed corrupt and
34 illegal practices, or whether or not the election should be declared
35 void, they shall so certify to the governor, and shall also file a
36 transcript of the evidence with such certificate.

Privileges of Witnesses.

Sec. 22. At any trial, inquiry or hearing under the provisions
2 of this article, no person shall be excused from attending and testi-
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3 fying or from producing books, papers or other documents before
4 the court upon the ground or from the reason that the testimony
5 or evidence, documentary or otherwise, require of him, may tend
6 to convict him of a crime, or subject him to a penalty or forfeiture,
7 but no person shall be prosecuted or subjected to any penalty or
8 forfeiture except forfeiture of nomination or election of office for
9 or on account of any transaction, matter or thing concerning which
10 he may so testify, or produce evidence against him in any criminal
11 investigation or proceeding, except in an action for perjury in giv-
12 ing such testimony.

Punitive Costs.

Sec. 23. In the decision of any petition for a judicial inquiry
2 into corrupt and illegal practices at any election, costs may be
3 awarded against the losing party; and the trial judge shall have
4 power to award additional punitive costs against the petitioner or
5 petitioners, if they shall find that the allegations of the petition
6 are materially untrue, and that the petition was brought from
7 vexations or malicious motives.

Appeals.

Sec. 24. Appeals may be taken from the determinations in
2 such judicial inquiry in the same manner as appeals may be taken
3 as provided by law in civil actions; but the party appealing shall
4 in no case be entitled to or obtain a stay of proceedings. No injunc-
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5 tion shall issue in any such judicial inquiry suspending or staying
6 any procedure therein or connected therewith, except upon appli-
7 cation to the court or the presiding judges thereof, upon notice
8 to all parties and after hearing.

Payment of Special Counsel.

Sec. 25. The special counsel provided for by this act shall receive a reasonable compensation for his services, but not to exceed twenty-five dollars per day for the time actually spent in conducting the proceedings in court or upon appeal, and not to exceed ten dollars per day for the time necessarily expended in preparation therefor. Such compensation shall be paid from the state treasury on vouchers verified by the officer appointing such counsel.

Senate Bill No. 144

[BY MR. GOODYKOONTZ.]

Introduced January 21, 1915. Referred to the Committee on the Judiciary. January 28, reported back with the recommendation that it do pass. February 4, rules suspended, taken up out of its order for immediate consideration; read a first time and ordered to a second reading.

A BILL designating by status newspapers in which county courts, boards of education, cities, towns and villages and state, county, district and municipal officers shall publish such notices, statements, lists, reports, advertisements, proclamations and other matters, as the law requires them to publish in newspapers, and providing a remedy to compel such publications therein.

Be it enacted by the Legislature of West Virginia:

Sec. 1. Every county court or tribunal erected in lieu of a county court, every board of education, whether of an ordinary school district or an independent school district, every incorporated city, town or village and every state, county, district or municipal officer, required by law to make, or cause to be made, publication of any notice, statement, list, report, advertisement, proclamation or other matter, in two newspapers of opposite politics, in the state or any county or sub-division thereof, shall publish the same, or cause it to be published, in two newspapers printed and published at the date of the passage of this act, at the county seat of the county in which such publication is to be made, and representing, respectively, the two political parties therein which,

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at the last preceding general election held therein, cast the highest

14 number of votes in such county; and, if any party be represented
15 by more than one newspaper printed and published as aforesaid,
16 such publication, as to such party, shall be made in
17 the one of such papers which was first established as
18 such representative or its immediate successor running
19 under a new or altered name and printed and publish-
20 ed as aforesaid. In case such publication is required to be made
21 in only one newspaper, it shall be published in the oldest news-
22 paper representative of one of such two leading political parties,
23 or its successor, printed and published as aforesaid. *Provided,*
24 *however,* that a daily newspaper published in a city of ten thous-
25 and population, or more, and representing a leading political party
26 as herein defined, shall have preference over a weekly newspaper
27 representing such party, whether such daily paper is published at
28 the county seat or not, and whether it is the oldest representative
29 of such party or not; and, *provided, further,* that a board of educa-
30 tion of a district or independent district may make its publications
31 in any newspaper printed and published in its district, if such
32 there be. All such existing contracts for such publications as are
33 herein mentioned as are inconsistent with the provisions of this
34 act shall cease and determine when the same shall take effect.

Sec. 2. The owner or publisher of any newspaper entitled,
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2 under the provisions of this act, to have any publication made in
3 his newspaper, which any county court or tribunal erected in lieu
4 thereof, board of education, council of a municipal, corporation,
5 or public officer shall fail or refuse to make, may have a writ of
6 mandamus to compel the making of said publication; *provided,*
7 he is willing to accept the price prescribed therefor by law.

Sec. 3. All acts and parts of acts coming within the pur-
2 view of this act and inconsistent with the same are hereby re-
3 pealed.

Senate Bill No. 12

[BY MR. KEIM.]

4. BILL to revise, amend and re-enact chapter nineteen of the Acts
of one thousand nine hundred and eight, Extra Session, laws of
West Virginia, concerning primary elections, the nomination of

candidates, the regulation of political parties and party committees, and to repeal conflicting laws.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That all candidates of political parties, as herein
2 defined, for the office of United States Senator, for the office of
3 Representative in Congress, for the office of State Senator, for
4 the office of member of the House of Delegates, for all elective
5 state and county offices, for all elective offices of magisterial dis-
6 tricts, school districts and judicial district, for all offices to be
7 filled in the general election required by law to be held on the
8 first Tuesday after the first Monday of November of each alter-
9 nate year, as provided in Section 13 of the Code of West Virginia,
10 except the office of presidential electors, shall be nominated; and
11 delegates to National party conventions, State committeemen and
12 county committeemen shall be elected, at primaries held in ac-
13 cordance with the provisions of this act, and in no other manner.

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14 All such party officers as are required by the rules of the several
15 political parties to be elected by the vote of the party electors
16 shall be elected at primaries held in accordance with the provis-
17 ions of this Act, excepting members of the National committee,
18 and members of congressional, judicial and senatorial district
19 committees, who shall be elected as hereinafter provided.

20 In the years when candidates for the office of President of
21 the United States are nominated, every qualified elector of a po-
22 litical party, herein defined to be a political party, within the
23 State, shall have opportunity at the primaries held in such years,
24 subject to the provisions of this act, to vote his preferences for
25 one person to be the candidate of his political party for President
26 and one person to be the candidate of his political party for Vice-
27 President of the United States.

28 This act shall not apply to the nomination of candidates to
29 be voted for at special elections to fill vacancies, except when such
30 special election is held at the time of the regular election and
31 such vacancy occurred or existed at least sixty days prior to the
32 regular primary antecedent to such regular election; and nothing
33 herein contained shall prevent any body of voters not constituting
34 a political party from nominating candidates by petition as is
35 now provided or may hereafter be provided by law.

Terms Defined.

Sec. 2. Any party or organized body of electors, one of whose candidates at the general election for State and county officers then next preceding the primary, polled in each of at least ten counties of the State not less than two per cent. of the largest entire vote cast in each of said counties for any elected candidate, and polled a total vote in the State equal to at least two per cent. of the largest entire vote cast in the State for any elected candidate, is hereby declared to be a political party, within the meaning of this act, within the State; and shall nominate all its candidates for any of the offices provided for in this act, and shall elect its delegates to the National convention, State Committee-men, and also all such party officers (including members of the national Committee) as its rules provide shall be elected by a vote of the party electors, in accordance with the provisions of this act.

Any party or organized body of electors which at the general election for State and county officers then next preceding a primary, cast more than two per cent. of the entire vote cast within any Congressional district, is hereby declared to be a political party, within the meaning of this act, within such Congressional district, and shall nominate its candidate for Representative in Congress and shall elect such party officers as its rules provide in accordance with the provisions of this act.

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Any party or organized body of electors which at the general election for state and county officers then next preceding a primary, cast more than two per cent. of the entire vote cast in any county, is hereby declared to be a political party, within the meaning of the act, within said county, and shall nominate all county officers and shall elect such party officers as its rules provide for the county and for political sub-divisions of the county, in accordance with the provisions of this act.

The following words and phrases in this act shall, unless the same be inconsistent with the context, be construed as follows:—

(a) The word “primary,” the primary election provided for in this act, to be held on the first Tuesday in June or the first Tuesday in August as designated in this act.

(b) The word “election,” a general election, as distinguished from a special election or a primary election.

(c) The word “precinct,” a voting district heretofore or

39 hereafter established by law within which all qualified electors
40 vote at one polling place.

41 (d) The words "State office," or "State officer," an office to be
42 filled or an officer to be voted for, by qualified electors of the en-
43 tire state, including United States Senator and Congressmen-at-
44 Large, and delegates and alternate delegates at large to National
45 nominating conventions.

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46 (e) The words "Congressional office," or "Congressional
47 officer," representatives in Congress and delegates or alternate
48 delegates to National nominating conventions, when such dele-
49 gates are chosen by Congressional districts.

50 (f) The words "Judicial office" or "Judicial officers"
51 judges of the Supreme and Circuit courts.

52 (g) The words "county office" or "county officers," an office
53 to be filled or an officer to be voted for, by the qualified electors
54 of the entire county.

Party Committees.

Sec. 3. The State committee of each political party, may
2 make such rules for the government of such state committee, not
3 inconsistent with law, as it may deem expedient; and it may also
4 revoke or alter or amend, in any manner not inconsistent with
5 law, any present or future rules of such state committee.

6 National committeemen shall be elected by the state com-
7 mittee of each respective party, unless the rules of the National
8 party otherwise provide; in which case they shall be elected in the
9 manner provided by the rules of the National party, and all state
10 committeemen shall be elected by Senatorial districts. Each Sen-
11 atorial district shall be entitled to elect two members of the State
12 committee. The State comitteemen thus elected shall meet for
13 organization not later than the third Wednesday following their

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14 election, at such hour and place as shall be designated by the State
15 chairman of each respective party. The said State committee-
16 men shall be elected at the June primary in the year one thousand
17 nine hundred and sixteen and shall hold office until their suc-
18 cessors are duly elected and qualified. Thereafter the State com-
19 mitteemen of all parties shall be elected at the June primary, and
20 they shall hold office for the term of four years.

21 Vacancies happening at any time in the office of National

22 committeemen shall be filled by the State committee of the re-
23 spective party, unless the rules of the National party otherwise
24 provide; in which case vacancies shall be filled in the manner pro-
25 vided by the rules of the National party.

26 Vacancies happening at any time in the office of State com-
27 mitteemen shall be filled by the Senatorial district committee of
28 the district in which the vacancy occurs.

29 There shall also be chosen for each political party a county
30 committee for each county of the State to consist of two members
31 from each magisterial district in the county. The members of
32 said county committees shall be elected at the June primary in the
33 year one thousand nine hundred and sixteen and shall hold office
34 until their successors are duly elected and qualified. Thereafter
35 the said county committeemen of all parties shall be elected at the
36 June primary, and they shall hold office for the term of four years.
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37 There shall be chosen also for each political party, within
38 three weeks after the June primary of the year one thousand nine
39 hundred and sixteen, and thereafter within three weeks after each
40 June primary, a committee for each Congressional, judicial and
41 senatorial district. The Congressional district committee shall be
42 composed of one voter from each county composing the district,
43 who shall be chosen by the county committee of the county. When
44 any judicial district or senatorial district is composed of more than
45 two counties, the committees thereof shall consist of the chairman
46 of the county committees of the counties composing the same.
47 When any such district consists of two counties only, the com-
48 mittees composing the district, chosen by them. When any such
49 district is composed of one county only the committee thereof, shall
50 consist of the chairman of the county committee and two other
51 voters of the county chosen by said county committee. A vacancy
52 in any such committee made by death, resignation, removal or
53 otherwise, shall be filled in the same manner as the selection was
54 originally made.

*Political Party Committees; Organization; Status of Existing
Committees.*

Sec. 4. As soon as practicable after the members of any new
2 committee have been duly chosen, as hereinbefore provided, they
3 shall convene within their respective political divisions at the call

4 of the chairman of the retiring committee, and if he fail to issue
5 such call, then upon the call of the chairman of the State com-
6 mittee, and proceed to select a chairman, a treasurer, and a secre-
7 tary from among their own members. No member of any such
8 committee shall be represented in any meeting of his committee by
9 agent or proxy. The various political party officers and commit-
10 tees now in existence shall exercise the powers and perform the
11 duties herein prescribed until their successors are chosen in ac-
12 cordance with the provisions of this act.

Political Party Committees; Membership of; Who Eligible to.

Sec. 5. Every person who is elected or appointed a member
2 of a political party committee or is made a member thereof by any
3 of the provisions of this chapter, shall be presumed to have accept-
4 ed such membership, until and unless he shall disavow or resign
5 such membership in writing. If any member of such committee
6 remove from the territory which he was elected or chosen to repre-
7 sent, his office of such committeeman shall thereby become vacant.
8 It shall be the duty of every committeeman so removing to notify
9 the chairman of his committee of that fact.

10 No person holding or accepting any elective or appointive of-
11 fice of honor or profit under the authority of this State or of the
12 United States, and no postmaster, shall be eligible to be elected, or
13 to be appointed, or to hold or to continue to hold, the office of
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14 committeeman of any political committee whatsoever. The ac-
15 ceptance of election or appointment to the office of committeeman
16 of any political committee, or the continuance in such office of
17 committeeman, shall work a forfeiture of the office or appointment
18 of honor or profit so held or accepted under the authority of this
19 State and shall subject the person holding or accepting any elect-
20 ive or appointive office under the authority of the United States
21 while holding the office of party committeeman, to a fine of not
22 less than one hundred dollars.

Political Party Committees; Meetings; Notice of Meetings.

Sec. 6. Notice of meeting of a county committee may
2 be given by publication of the notice thereof, signed by its chair-
3 man and secretary, at least one notice in each week for two suc-
4 cessive weeks in a newspaper of such political party published in
5 the county and of general circulation therein, the last publication

6 whereof shall be at least two days before the day of the meeting.
 7 Or such notice may be sent through the mails by registered letter
 8 to the post-office address of each member of the committee at least
 9 one week before the day of such meeting. Notice of a meeting of
 10 any other political party committee may be given by sending a no-
 11 tice, signed by the chairman and secretary thereof, to the post-
 12 office address of each member, by registered mail, at least ten
 13 days before the day of such meeting. No notice of a meeting of

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14 a political party committee shall be necessary when such meeting
 15 is held pursuant to an order or resolution of the committee made
 16 at a meeting thereof at which all the members were present, nor
 17 of a meeting which is required by law to be held at a particular
 18 time and place. A meeting of any such committee at which all
 19 the members are present shall be valid, though no notice thereof
 20 had been given; and a notice of the meeting of any such commit-
 21 tee may be waived in writing by the members thereof; but the
 22 record of such meeting shall state the names of the members who
 23 waived notice, and their written waivers of notice shall be pre-
 24 served by the secretary of the committee, unless the record be per-
 25 sonally signed by all the members who had not received notice.
 26 it shall be the duty of the secretary of every political party com-
 27 mittee to keep a record of the proceedings of every meeting of his
 28 committee and preserve the same.

Political Party Committees; Quorum; Enforcing Attendance.

Sec. 7. A quorum of any political party committee shall
 2 consist of a majority of all members of which the committee is
 3 composed, including all vacancies therein from any cause. In
 4 cases where a meeting of any such committee is fixed by the terms
 5 and provisions of this act for a particular time, or a particular
 6 time and place, the members of every committee present at the
 7 time, or at the time and place, though less than a quorum, shall
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8 exercise all the rights of such committee. Less than a quorum of
 9 any such committee may meet and adjourn from time to time until
 10 a quorum appears, and may compel the attendance of absent mem-
 11 bers by causing their arrest. In such case the chairman or secre-
 12 tary or any member of the committee may make affidavit before
 13 the judge of any court or any justice of the peace of the county,
 14 in which he shall set forth the name of the committee, the names

15 of the absent members, and that they have had reasonable notice
15-a of the meeting called for the day and place named in the affidavit
16 and that they have failed or refused to attend such meeting,
17 whereupon the judge or justice shall issue a capias for the arrest
18 of the said members, commanding the sheriff or any constable of
19 the county to arrest the persons named therein and bring them be-
20 fore him. If it appear at the hearing before such judge or justice
21 that any such member had reasonable notice of the meeting, or
22 that it was a meeting the time whereof was fixed by law, and that
23 such member cannot furnish a good excuse for his absence, he
24 shall be fined not less than five dollars, nor more than twenty-five
25 dollars, and shall moreover pay the costs of the proceedings. In
26 any case, the judge or justice may order the member to pay such
27 costs.

Sub-Committees.

Sec. 8. Nothing in this act contained shall be so construed

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2 as to prohibit any political party committee from appointing any
3 sub-committee of its own members or other committee charged
4 with any duty named in the order or resolution providing for the
5 selection of said sub-committee; nor the appointment of a cam-
6 paign or central committee to have charge of the administrative
7 or executive work of a political campaign; but no such central or
8 campaign committee or sub-committee shall be competent to dis-
9 charge any duty devolved by this act on any political party com-
10 mittee or the members thereof.

Time and Place of Primary.

Sec. 9. In the years in which the President and Vice-Presi-
2 dent of the United States are chosen, the primary election shall
3 be held at every voting precinct in the State on the first Tuesday
4 in June; and in the other years when general elections are held,
5 The primary election shall be held on the first Tuesday in August.
7 The primary herein provided for shall be held at the regular
8 polling places now established, or which may hereafter be estab-
9 lished, for the purposes of a general election.

10 At every primary the polls shall be opened at each election
11 precinct at seven o'clock in the morning, but not before, and shall
12 be closed at half past six o'clock in the evening, eastern standard
13 time, or as nearly thereto as practicable. Before any voter is per-

14 mitted to vote, the commissioners of election shall cause to be pro-
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15 claimed that such primary election is opened. When the polls are
16 closed, proclamation must be made of the fact by one of the com-
17 missioners of elections to the people outside in a loud and audible
18 tone of voice, and a minute of such proclamation, and of the time
19 when such was made, must be entered on the tally sheets by the
20 poll clerks, and after such minute has been made no more votes
21 shall be received.

Notice of Primaries; Publication.

Sec. 10. On or before the ninth Tuesday preceding each Au-
2 gust primary and each June primary respectively, the Secretary of
3 State shall send to the clerk of the circuit court of each county a
4 written notice designating all the offices for which candidates are
5 to be nominated therein or in the nomination to which candi-
6 dates are required to file nomination petitions in the office of the
7-8 Secretary of State, including that of President of the United
9 States; and shall also, in said notice, set forth the number of rep-
10 resentatives in Congress and officers of the Commonwealth to be
11 elected at the next succeeding election by a vote of the electors of
12 the State at large, and the officers to be elected by a vote of the
13 electors of the county or of any district therein, or of any district
14 of which such county forms a part. On or before the ninth Tues-
15 day preceding the June primary, the chairman of the State com-
16 mittee of each political party, herein defined to be a political

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17 party within the State, shall send to the clerk of the circuit court
18 of each county a written notice, setting forth the number of dele-
19 gates and alternate delegates to the National Convention of such
20 party who are to be elected at said primary in such county, or in
21 any district of which such county forms a part.

22 On or before the ninth Tuesday preceding the June primary
23 the chairman of the county committee of each party, shall send to
24 the clerk of the Circuit Court of such county a written notice, set-
25 ting forth the names of all party offices within the county or any
26 district thereof to be filled by election at the ensuing primary.

27 Beginning not earlier than nine weeks, nor later than eight
28 weeks, before the primary, the clerk of the Circuit Court of each
29 county shall publish the number of delegates and alternate dele-
30 gates to the National convention of each party who are to be elect-

31 ed in the State at large at the ensuing primary, and the number
32 of such delegates and alternate delegates and State committeemen
33 who are to be elected at said primary in said county, or in any
34 district of which such county forms a part; and shall also publish
35 the names of all offices for which nominations are to be made, and
36 the names of all party offices, including that of member of the Na-
37 tional committee, if any, and State committeemen, for which can-
38 didates are to be elected at said primary in said county, or in any
39 district of which such county forms a part, or in the State at
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40 large. Said notice shall contain the date of the primary, and
41 shall be inserted in two newspapers of general circulation publish-
42 ed within the county, wherever such course is possible, at least
43 once each week for three successive weeks. Such newspapers, so
44 far as practicable, shall be representative of the two different po-
45 litical parties polling the highest vote in such county at the last
46 preceding November election, the highest vote cast within the
47 county for any candidate of a party being deemed to be the vote
48 of that party.

Nomination Petitions.

Sec. 11. The names of candidates for nomination as Presi-
2 dent of the United States, and the names of all other party candi-
3 dates, shall be printed upon the official ballot of a designated
4 party, upon the filing of nomination petitions in their behalf,
5 signed by qualified electors of the State, or of the political district
6 or division, as the case may be, within which the nomination is to
7 be made or election is to be held, and the filing of affidavits by the
8 candidates as provided in this act; and the names of no candidates
9 shall be printed upon an official ballot of a political party, to be
10 used at any primary, unless such petitions shall have been filed,
11 and unless such candidates, except they be candidates for the of-
12 fice of President or Vice-President of the United States, shall
13 have filed affidavits, as hereinafter provided.

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14 (a) Each signer of a nomination petition shall sign but one
15 such petition for each office to be filled, and shall declare therein
16 that he is a member of the party designated in such petition;
17 *Provided, however,* That when there are to be elected two or more
18 persons to the same office, each signer may sign petitions for as
19 many candidates for such office as, and no more than, he could

20 vote for at the succeeding election. He shall also declare therein
20-a that he is a qualified elector of the county therein
21 named; and, in case the nomination is not to be made, or candi-
22 dates are not to be elected, by the electors of the State at large,
23 of the political district or division therein named, in which the
24 nomination is to be made or the election is to be held. He shall
25 add his occupation and residence, giving city, street and number,
26 if any, and shall also add the date of signing. No nomination
27 petition shall be circulated prior to sixty (60) days before the last
28 day on which such petition may be filed, and no signature shall be
29 counted unless it bears date within sixty (60) days of the last
30 day for filing the same.

31 Said nomination petition may be on one or more sheets, and
32 different sheets must be used for signers resident in different coun-
33 ties. Each sheet shall have appended thereto the affidavit of some
34 person,—not necessarily a signer and not necessarily the same
35 person on each sheet,—setting forth that the affiant is a qualified
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36 elector of the State, or of the political district or division, as the
37 case may be, referred to in said petition; his residence, giving city,
38 street and number, if any; that the signers signed with full knowl-
39 edge of the contents of the petition; that their respective resi-
40 dences are correctly stated therein; that they all reside in the
41 county named in the affidavit, and that each signed on the date set
42 opposite his name; and that to the best of affiant's knowledge and
43 belief the signers are qualified electors and members of the desig-
44 nated party of the State, or of the political district or division, as
45 the case may be.

46 (b) Each candidate for any State, county or district office
47 shall file, with his nomination petition, his affidavit stating his
48 residence, with street and number, if any, and his postoffice ad-
49 dress, his election district, the name of the office for which he con-
50 sents to be a candidate, that he is eligible for such office, and that
51 he will not knowingly violate any election expenses and prohibiting
52 corrupt practices in connection therewith: *Provided*, That in
53 no event shall any person's name be printed upon official ballot of
54 any party as a delegate, state committeeman, national commit-
55 teeman, or party officer, unless he is a qualified elector of said
56 party.

57 In the case of a candidate for nomination as President of the
58 United States, it shall not be necessary for such candidate to file

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59 the affidavit required in this section to be filed by candidates, but
 60 the post office address of such candidates shall be stated in such
 61 nomination petition.

62 (c) Each candidate for election as delegate or alternate del-
 63 egate to a National party convention may include, with his affida-
 64 vit, the statement hereinafter set forth in this section; but his
 65 failure to include such statement shall not be a valid ground, on
 66 the part of the Secretary of State, for refusal to receive and file
 67 his nomination petition. Such statement, if any be made, shall
 68 be in substantially the following form:

Delegate's Statement.

69 I hereby declare to the voters of my political party in the
 70 (here insert "State of West Virginia" if a delegate or alternate
 71 delegate at large; otherwise, insert ".....
 72District") that if elected and in attendance as
 73 a delegate to the National convention of the party, I will with all
 74 fidelity, to the best of my judgment and ability, in all matters
 75 coming before the convention, support that candidate for Presi-
 76 dent of the United States who shall have received the highest
 77 number of votes cast in the (here insert "State" if a delegate or
 78 alternate delegate at large; otherwise, insert ".....
 79District") by the voters of my party for said office
 80 at the ensuing primary, and will use all honorable means within
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81 my power to aid in securing the nomination for such mandate
 82 for President.

83

84 (Signature of candidate for delegate or alternate delegate.)

85 On the ballot used at a primary, after or under the name of
 86 each candidate for delegate or alternate delegate to a national
 87 party convention, shall appear the words, "Promises to support
 88 popular choice of party in the (here insert "State if a delegate or
 89 alternate delegate at large; otherwise, insert ".....
 90District") for President," or "Does not promise to
 91 support popular choice of party in the (here insert "State" if a
 92 delegate or alternate delegate at a large; otherwise insert"
 93District") for President" according as the candi-
 94 date included, or failed to include, the above statement with his
 95 affidavit.

Petitions, When Filed, Number of Signers.

Sec. 12. The nomination petitions in the case of candidates
 2 for the office of President of the United States, Senator of the
 3 United States, member of the House of Representatives of the
 4 United States, for all state officers, for the office of delegate or al-
 5 ternate delegate to a National party convention, and for the office
 6 of member of the State or National committee, shall be filed at
 7 least four weeks prior to the primary, with the Secretary of State.

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8 Nomination petitions in all other cases shall be filed, at least three
 9 weeks prior to the primary, with the clerks of the Circuit Courts
 10 of the respective counties.

11 Nomination petitions of candidates shall be signed—

12 (a) If for the office of President of the United States or of
 13 Senator of the United States, by at least one hundred qualified
 14 electors in each of at least ten counties of the State.

15 (b) If for a State office, to be filled by a vote of the electors
 16 of the State at large, for the office of Representative from the
 17 State at large in the Congress of the United States, for the office
 18 of delegate or alternate delegate at large to a National party con-
 19 vention, or for the office of member of the National committee, by
 20 at least one hundred qualified electors in each of at least five coun-
 21 ties of the State.

22 (c) If for the office of a member of the house of repre-
 23 sentatives of the United States, to be filled by a vote of the electors
 24 of a congressional district; or of a delegate or alternate delegate
 25 to a National party convention, other than delegate or alternate at
 26 large; or of judge of any court, other than a court whose judges
 27 are to be elected by a vote of the electors of the state at large; or
 28 of State Senator, by at least two hundred qualified electors.

29 (d) If for the office of a member of the House of Delegates
 30 or for the office of member of the state committee, or an office to
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31 be voted for by the electors of the entire county, by at least one
 32 hundred qualified electors.

33 (e) And for all other offices, and all other party offices, by
 34 at least ten qualified electors.

Application to Set Aside Petition.

Sec. 13. No nomination petition shall be refused or set
 2 aside except for—

3 (a) Material error or defects apparent on the face thereof,
4 or on the face of the appended or accompanying affidavits; or

4-a (b) Material alterations made after signing, without the
5 consent of the signers; or

6 (c) Want of a sufficient number of genuine signatures of
7 persons qualified, with respect to age, sex, residence, and citizen-
8 ship to be electors.

9 The invalidity of any sheet of a petition shall not affect the
10 validity of such petition if a sufficient petition remains after elimi-
11 nating such invalid sheet.

12 Application to set aside any nomination petition shall be by
13 petition to the Circuit Court of the county in which such nomina-
14 tion petition has been filed, setting forth specifically the matters
15 object to, and must be filed within five days after the last day
16 for filing said nomination petition. Upon the representation of
17 such a petition the court shall make an order fixing a time for

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18 hearing, which shall not be later than ten days after the last
19 day for filing said nomination petition, and specifying the time
20 and manner of notice that shall be given to the candidate named
21 in the nomination petition sought to be set aside.

22 If the matters objected to are such as are specified in subdivis-
23 ion (a) of this section, the court upon hearing the case may, in
24 its discretion, permit amendments within such time and upon
25 such terms as to payment of costs, as the said court may specify.

26 In case the petition to set aside a nomination petition is dis-
27 missed, the petitioner shall pay the whole of the costs of the pro-
28 ceeding, including witness fees.

Certificate of Secretary of State.

Sec. 14. Not more than twenty-five days nor less than twen-
2 ty-two days before the day fixed by law for the primary, the Secre-
3 tary of State shall arrange the names of all the candidates for
4 nomination who are entitled to have their names printed on any
5 political party ballot, in accordance with the provisions of this
6 chapter, and shall forthwith certify the same under his name and
7 the less seal of the State and file the same in his office, and make
8 and transmit a duplicate thereof by registered letter to the clerk
9 of the Circuit Court of each county in the State. He shall also
10 post a duplicate thereof in a conspicuous place in his office and
11 keep same posted until after said primary election has taken place,

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12 and cause to be published twice in some daily newspaper of general
13 circulation published at the seat of government, the names of all
14 candidates of each political party for each office so certified by him.
15 In case of emergency the secretary of state may transmit such du-
16 plicates by telegraph. Such certificate shall give the name and
17 residence of each candidate, the name of the office for which he is
18 a candidate, and the name of the political party of which he is a
19 candidate, and upon whose ballot or ticket his name is to be
20 printed as such candidate.

21 In case of each candidate for delegate or alternate delegate to
22 a National party convention, the secretary of state shall certify
23 as to whether such candidate has included with his affidavit the
24 statement provided for in subdivision (c) of section eleven of this
25 act.

26 The secretary of state shall determine the color of the paper
27 on which the ballots of the respective parties are to be printed,
28 and the primary ballot of no two parties shall be of the same color.
29 The secretary of state shall also determine the color of paper on
30 which shall be printed the specimen ballots provided for in section
31 eighteen of this act, but the specimen ballots shall be of a color
32 different from any of the colors selected for the various party bal-
33 lots. With the duplicate list of names of candidates provided for
34 in this act the secretary of state shall transmit by registered let-

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35 ter, to the Circuit Clerk of each cousty in the State, samples of
36 paper showing the color to be used for the ballot of each political
37 party and for specimen ballots, as determined in accordance with
38 the provisions of this act.

Vacancies in Nominations; How Filled.

Sec. 15. In case of vacancy in a nomination made pursuant
2 to this chapter, by death, resignation or otherwise, if it be for an
3 office to be voted for by the voters of a county or any sub-division
4 thereof, the same shall be filled by the county committee of the po-
5 litical party which the nominee represented; if it be for an office
6 to be voted for by the voters of the entire state, the vacancy shall
7 be filled by the state committee; and if it be any office to be filled
8 by the voters of any sub-division of the State greater than a county
9 and less than the entire state, the vacancy shall be filled by the
10 members of the county committees of the proper political party of

11 the political division in which the vacancy happens, at a meeting
 12 thereof called for the purpose by the chairman of said political
 13 party committee of said political division; or, if he fail, by the
 14 chairman of the state committee of said political party. Notice
 15 of such meeting shall state the day, place, hour and purpose of
 16 the meeting and it shall be published in at least one newspaper of
 17 said political party of general circulation in such political division,
 18 and if practicable a copy shall be mailed to the address of each of
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19 said members. All such nominations to fill vacancies shall be cer-
 20 tified to the clerks of the Circuit courts by the chairman and sec-
 21 retary of the committee making the same or of the political divis-
 22 ion for which the nomination is made.

Pasters.

Sec. 16. If such nomination to fill a vacancy be not so made
 2 and certified to the clerk of the circuit court before the printing
 3 of the ballots are herein provided, it shall be lawful for the chair-
 4 man of said committee making such nomination to provide the
 5 commissioners of elections of each precinct at which such candi-
 6 date is to be voted for, with a number of pasters containing only
 7 the name of such candidate, at least equal to the number of ballots
 8 provided for each precinct. No pasters shall be given to or re-
 9 ceived by any person except such commissioners; and it shall be
 10 their duty to deliver such pasters to the poll clerks, who shall, in
 11 the presence of the said commissioners, put one of such pasters in
 12 a careful and proper manner, and in the proper place on each bal-
 13 lot, before they shall sign their names thereon.

Publication of Nominations.

Sec. 17. Not more than twelve nor less than eight days be-
 2 fore the primary the clerk of the Circuit Court shall publish an
 3 announcement of the color of the primary ballots of the respective
 4 parties, as determined by the Secretary of State. The clerk of
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 5 the circuit court shall also publish with said announcement the
 6 list of all nominations made by every political party to be voted
 7 on in his county. In such list the names of candidates shall be
 8 arranged in groups by political divisions and in the order in which
 9 they will appear on the ballot of each political party separately,
 10 in form substantially as follows:

Primary Election—List of Nominees.

11 I hereby certify that the following are the names of all candidates
 12 of each political party to be voted for at the primary election to be
 13 held inCounty, West Virginia, on the day
 14 of, 19...

15 The Party Ticket.

16 (color of ballot to be...)

17 National

18 For United States Senator.

19 (Vote for one.)

20 A... B..., ofCounty.

21 C... D..., ofCounty.

22 And so on, naming each office under each political division or
 23 group for which candidates are to be voted on, and giving the
 24 names of all the candidates for each office on each party ballot sep-
 25 arately. Where there are no candidates for any office, the name
 26 of the office and the number of candidates to be voted for shall be
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27 stated and in the place where candidates' names should appear the
 28 words "no candidate named." At the end of the list the clerk
 29 will state:

30 Specimen ballots for any precinct or district can be had on
 31 application to (give name and address of printer of official bal-
 32 lots) at the following prices: (here state the prices for lots of
 33 100, 250, 500, 1,000, and each additional 1,000 after the first
 34 1,000.)

35 Given under my hand this day of 19....

36 (Signature and official designation of clerk.)

37 Publication of such list shall be in the manner prescribed in
 38 section thirty of chapter three of the Code, except that it shall be
 39 published but one time in any newspaper and not more than twelve
 40 nor less than eight days before the primary.

Sec. 18. Whenever it shall appear by affidavit or otherwise
 2 that any error or omission has occurred in the publication of the
 3 names or description of any candidate or in the printing of the
 4 ballot, the ballot commissioners shall correct such error.

Election Rooms, Shelves or Tables, and Compartments.

Sec. 19. The county court of each county before each pri-
 2 mary election, shall secure, in each voting precinct in the county
 3 a suitable room or building in which to hold the election, and shall

4 cause the same to be suitably provided with a sufficient number
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5 of booths or compartments, not less than two nor more than five,
6 each containing a table or counter or shelf, and furnished with
7 proper supplies for preparing the ballots. Such booths shall be
8 in plain view of the election officers, and so arranged that the
9 voters can conveniently prepare their ballots therein, screened
10 from the observation of all other persons as to the manner in which
11 they do so, and so that the booths cannot be entered except by per-
12 sons inside the guard rail; but such booths and the ballot boxes and
13 election officers shall be in plain view of those outside the guard
14 rail. The part of the election room occupied by the ballot boxes
15 and the booths shall be separated from the rest of the room by a
16 guard rail, a stretched rope, or in some other manner; and no per-
17 sons, except the commissioners, clerks and challengers and voters
18 engaged in receiving, preparing, or depositing their ballots, shall
19 be allowed within such space nor approach within five feet of the
20 ballot boxes and the booths, except by authority of the commis-
21 sioners of election for the purpose of keeping order and enforcing
22 the law. The commissioners of election shall prohibit and pre-
23 vent all communications, in the form of signals or otherwise be-
24 tween persons inside and persons outside the election room, except
25 where necessary and by permission of the commissioners. And
26 such commissioners shall have authority to prohibit and prevent
27 all acts which in their opinion are performed for the purpose of
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28 aiding in the bribery of voters and other corrupt practices, and
29 may cause the arrest of all persons guilty of such acts.

Board of Primary Ballot Commissioners.

Sec. 20. There shall be a board of ballot commissioners of
2 primary elections for each county of the state, to be composed of
3 the clerk of the circuit court, who shall be chairman thereof, and
4 of the chairman of the county committees of each political
5 party making nominations to be voted for in the primary. If any
6 such chairman is ineligible by reason of being a candidate in such
6-a primary or for other cause cannot serve, he shall in writ-
7 ing, designate some other voter of his party in the county, who is
8 eligible and fit, to serve in his stead. Any vacancy in the member-
9 ship of said board shall be filled by the chairman of the said com-
10 mittee of the political party affected by such vacancy. Said board

11 and the members thereof shall perform the duties in this act
12 required of them; and for failure to do so, if no other punishment
13 is prescribed therefor, shall, for each such offense, be fined not less
14 than ten nor more than one hundred dollars. Said board shall
15 hold a meeting in the office of the clerk of the circuit court on
16 the fifth Tuesday before the primary election (or earlier, on notice
17 by the chairman) at which meeting they shall fix the dates of their
18 future meetings and transact such other business as they may
19 deem best.

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Sec. 21. A record of the proceedings and orders of the board
2 of ballot commissioners shall be kept by the clerk of the circuit
3 court, in a book provided for the purpose, labeled "Record of Pri-
4 mary Ballot Commissioners," and signed by said clerk. Therein
5 shall be kept a record showing the number of ballots of each po-
6 litical party prepared and delivered to election commissioner,
6-a for each precinct for each primary election, and the number of
7 each kind of such ballots voted, returned unused, and of spoilt
8 and defective ballots returned, and of such ballots lost or destroyed
9 in any manner, as shown by the poll books, by the packages of bal-
10 lots returned, and by other trustworthy sources of information; as
11 well as the name of the person to whom was delivered ballots and
12 other supplies for the primary election for each precinct, when de-
13 livered to him and the number and quantity and kind of ballots,
14 poll books, and of all other blanks and supplies delivered to such
15 person.

Appointment of Commissioners, Clerk and Challengers.

Sec. 22. There shall not be more than three commissioners
2 and three poll clerks appointed for each precinct. The county
3 committee of the three political parties casting the greater num-
4 ber of votes in the state for the office of president or representa-
5 tive in congress at the last general election and desiring to make
6 nominations for any office to be filled at the next general election,
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7 shall meet in the court house at the county seat of their county at
8 ten o'clock in the forenoon of the second Tuesday before the pri-
9 mary election, and each such committee shall appoint one qualified
10 voter of the precinct for which he is to act, (if there be such
10-a in the precinct, and if there be not such then the appoint-
11 ment may be made from another precinct as near thereto as pos-

sible) for commissioner of elections, for poll clerk and for challenger for each election precinct in the county. Each committee may appoint an alternate for each commissioner, clerk and challenger, who shall act in the absence of his principal. Such commissioners, clerks, challengers and alternates shall be persons of good character and not addicted to drunkenness. No person shall be appointed or shall act as commissioner, clerk or challenger at any primary election who has anything of value bet or wagered on the result thereof, or who is a candidate to be voted for therein; *Provided*, that if the majority of the candidates (except candidates for offices to be voted for by a territory less than a county) of any of the three said political parties shall make appointment of such commissioners, clerks and their alternates, or any of them, for their party for any one or more precincts in the county, and deliver to the committee or the chairman thereof, at such meeting such list, signed by the majority of said candidates, the persons named in such list shall be appointed the commissioners of election, the poll clerks and alternates for the precinct named and

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designated in such list. The candidates of any such political parties to be voted for in any county, except the candidates for an office to be voted for by the voters of less than a county, may meet at the court house of the county at ten o'clock in the morning of the Monday preceding the said second Tuesday before the primary election, and at such meeting, or at any adjourned meeting thereof, select such commissioners, clerks and alternates for any or all of the precincts; and *Provided further*, that the county committee of every other political party making nominations of candidates to be voted for in a primary election may, at a meeting thereof held on said second Tuesday, appoint one challenger and an alternate therefor for each precinct in the county, and certify the same to the clerk of the circuit court as hereinafter provided, and the clerk shall publish the same in the list of election officers he is required to publish as provided in the next section. Any candidate may be represented in such meeting by a voter of his political party, but no such proxy shall act unless his appointment as such proxy be made in writing and signed by his principal. If any person shall forge the name of any person to any such writing, or if any person shall knowingly act as proxy by virtue of any such forged writing, he shall be guilty of forgery, and on conviction thereof shall be punished accordingly.

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Sec. 23. It shall be the duty of the chairman and the secretary of each such political party committee to make and certify over their signatures a list of the commissioners, clerks, challengers and alternates so appointed for each precinct, and file the same with the clerk of the circuit court. It shall be the duty of solemnly swear that I will support the constitution of the United States in such manner as to show those appointed by each political party, in two newspapers of opposite politics, published in the county, if there be such, not later than seven days before the day for holding the primary election.

Oaths of Commissioners, Clerks and Challengers.

Sec. 24. Every person before entering upon the discharge of the duties of commissioner of elections shall take and subscribe the oath to the following effect:

State of West VirginiaCounty, ss:

I. (here write the name of every person taking the oath), do solemnly swear that I will support the constitution of the United States and the constitution of the state; that I am a duly qualified voter of said state and county; that I will faithfully and impartially discharge the duties of *commissioner of primary election as required by law; that I will not knowingly permit any person to vote in this election who is not qualified, nor knowingly refuse the vote of any qualified voter, * or cause any unneces-

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sary delay to persons offering to vote; that I will not disclose nor communicate to any person how any voter voted at such election, nor how any ballot was folded, marked, printed or stamped; that I will to the best of my ability obey and enforce the laws concerning primary elections and so far as possible prevent all fraud and corruption in said election; that I have nothing of value bet or wagered on the result of said election, and that I am not a candidate at this election; so help me God.

(Signature of commissioner.)

Subscribed and sworn to before me this day of.....
....., 19.....

(Signature of person administering oath.)

Sec. 25. Every person before entering upon the duties of poll clerk shall take and subscribe the oath prescribed for the commissioners, except that the part thereof between the star or

4 asterisks will be ommitted, and the following inserted: "poll
5 clerk of primary elections as required by law; that I will not
6 knowingly aid or assist in receiving the vote of any person not
7 qualified to vote in this election, nor knowingly aid or assist in
8 the rejection of the vote of any qualified voter." Such oath will
9 be signed and certified as in the case of the oath of the commis-
10 sioners.

Sec. 26. Every person before entering upon the duties of
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2 challenger shall take and subscribe the oath prescribed for the
3 commissioners, except that the part thereof between the stars or
4 asterisks will be ommitted and the following inserted instead;
5 "challenger; that I will not challenge any person's right to vote
6 in this election except for reasons believed by me to be good and
7 substantial." Such oath will be signed and certified as in the case
8 of the oath of the commissioners.

Sec. 27. Said oaths may be taken before and administered
2 by any one of the commissioners of elections so appointed, who
3 in turn may take the same before another of said commissioners.
4 Any of said commissioners may administer the oath to the poll
5 clerks and challengers. The said oath shall appear properly
6 certified on one of the poll books of every precinct. If any com-
7 missioner or clerk or challenger shall enter upon the discharge
8 of his duties before taking the oath so required of him he shall
9 be guilty of a misdemeanor, and on conviction thereof shall be
10 fined not less than ten or more than one hundred dollars, and
11 may be confined in the county jail not exceeding sixty days. The
12 said commissioners have authority to administer and certify oaths
13 and to take affidavits in any matter pertaining to the holding,
14 conducting and ascertaining the result of the election at their
15 precinct; and if any person shall falsely make such oath or affida-
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16 vit he shall be guilty of perjury; and shall on conviction thereof
17 be punished accordingly.

ABSENCE OF ELECTION OFFICERS.

Sec. 28. If any person appointed a commissioner of primary
2 elections fail to appear at the hour fixed for the opening of the
3 polls, his alternate shall act in his stead until he shall appear,
4 when he shall act. If both be absent, the clerk who was ap-
5 pointed by the political party which appointed the absent com-
6 missioner, shall appoint a commissioner to act until the commis-

7 sioners or his alternate shall appear. If none of the commis-
8 sioners are present within one-half hour after the hour fixed for
9 the opening of the polls, the alternates of such commissioners
10 shall act in their stead; and if any alternate be absent also, a
11 commissioner shall be appointed by the proper clerk as above pro-
12 vided. If any clerk be absent, his proxy shall act in his stead;
13 and be he absent, the commissioner of his political party shall
14 appoint a proper person to act as clerk. If any challenger be
15 absent, his alternate shall act in his stead; and if both be absent,
16 the commissioner of the political party represented by them shall
17 appoint a proper person to act as such challenger. Any person
18 acting as commissioner, clerk or challenger shall have all the rights,
19 perform all the duties, and be subject to all the liabilities of such
20 officers who were regularly appointed.

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Ballot Boxes.

Sec. 29. The clerk of the county court shall at the expense
2 of the county, provided and delivered to the clerk of the circuit
3 court at least one ballot box for the reception of the ballots of
4 each precinct. Each ballot box shall have at least two locks of
5 different kinds and combinations, so that the key of one will not
6 unlock the other and otherwise be so constructed as to prevent
7 fraud. An opening shall be made in the lid of each ballot box
8 sufficient only for a single ballot; and at the time the election
9 is opened the commissioners shall see that there are no ballots in
10 the box before the voting begins, and shall there upon securely
11 lock the box and give one key to one of the commissioners who
12 is in politics opposed to the commissioner who holds the other
13 of said keys, and the box shall not be again opened until the polls
14 are closed and the commissioners are ready to proceed with the
15 counting of the ballots.

Poll Books.

Sec. 30. There shall be prepared by the clerk of the county
2 court, for each precinct, one poll book for each political party,
3 which made nomination of candidate, together with a sufficient
4 number of tally sheets, certificates, other blanks, strong and durable
5 envelopes for the returns, and whatever else is necessary for hold-
6 ing the election and making the returns thereof. On the front
7 cover of each poll book shall be printed or written "Poll Book of

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8 Precinct No..... of District of County,
9 West Virginia, Primary Election, 19..." There
10 shall be printed or written thereon the oaths to be taken and
11 subscribed by the election officers. Each page of the poll book
12 shall be substantially in this form (which also shows the manner
13 of keeping the book by the clerk):

14 Names of all persons voting at Presinct No. of
15 District of County, W. Va., at the Primary
16 Election held, 19....

Party Affiliation					Party Affiliation				
NAMES OF VOTERS	R	D	P	S	NAMES OF VOTERS				
1 John Smith	x	..	..	..	1 Abraham Smith	..	..	..	x
2 Ric'd Smith	..	x	..	..	2 William Jones...	..	x	..	..
3 John Doe .	..	..	x	..	3 John Lee .....	..	..	x	..
4 Rich'd Roe	x	4 Rich'd Wilson	x
5 John Jones	x	5 James Brown ...	x
5 Totals	2	1	1	1	5 Totals	1	2	1	1

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At the end of each column on each page will be stated the
24 totals of the number of persons voting and of each party voted,
25 as recorded in that column, as shown above in the table. Imme-
26 diately after the polls are closed, the clerks will enter, immediately
27 under the name of the last voter registered in th poll book, the

28 aggregate of the number of persons voting and of the several
29 party ballots voted, as shown by the poll books, thus:

30 Whole number of persons votingten (10)
31 Republican ballots votedthree (3)
32 Democratic ballots votedthree (3)
33 Progressive ballots votedtwo (2)
34 Socialist ballots votedtwo (2)

35 And they will add this certificate:

36 We, the commissioners and clerks who held the said pri-
37 mary election, being duly sworn as required by law, hereby certify
38 that the foregoing is a correct list of all persons voting and of
39 the different party ballots voted at the primary election held at
40 Precinct No. of District ofCounty
41 W. Va., on the day of 19....

42 (Signature of commissioners and clerks.)

43 If there be any excess ballots found, in accordance with
44 section 56 of this act, the commissioners and clerks shall add
45 and sign a certificate, in substance as follows:

40

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46 We further certify that the following numbers of excess
47 ballots were found by us, pursuant to section 56 of chapter nine-
48 teen of the code, to-wit: Democratic, ballots, (..) Re-
49 publican ballots, (..); total, (..).

50 When a voter's ballot is being deposited in the ballot box
51 a clerk shall enter the voter's name in the said second column, and
52 his numerical number in the first column, and designate the poli-
53 tical party ballot the voter voted by making an X in the appro-
54 priate column. One of the clerks, to be designated by the com-
55 missioners, shall then call off the numbers and name of the voter,
56 and the designation of the ballot he voted, as recorded by him,
57 so that if there be any discrepancy between the clerk, the same may
58 be there and then remedied before proceeding further with the
59 election. At least two poll books shall be kept at each precinct,
60 each by a different clerk.

Affirmation Books.

Sec. 31. The clerk of the circuit court shall furnish to the
2 election commissioners of each precinct, with the poll books and
3 other supplies for the election, one affirmation book for each poli-
4 tical party making nominations, and after the first primary held
5 under this act he shall furnish also to them the affirmation books

6 used at the last preceding primary held at the precinct. On the
 7 front cover and at the top of each page shall be printed or writ-
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8 ten: "Affirmation Book of Party, Precinct No.....
 9 of..... District of County, W.
 10 Va., for Primary Election of 19...." They shall be
 11 paged alphabetically, and at the top of each page, following the
 12 above heading shall be printed or written the following affirmation,
 13 with the blank spaces properly filled in:

14 Affirmation—I, the undersigned, do solemnly swear that I
 15 have been duly registered and am a qualified voter of this precinct;
 16 and that I reside at the place designated opposite my name signed
 17 hereunder; and that the ballot I am about to cast will be the
 18 only primary election ballot cast by me this day, that I have
 19 not received anything of value for myself or for any other person
 20 with the intent to influence my vote in any way or the vote of
 21 any other person at this election; that I am in good faith, a mem-
 22 ber of the political party, and expect to support and act
 23 with the same; that I have not signed the petition for nomination
 24 of a candidate of any other political party in this primary elec-
 25 tion, nor have I signed the nomination papers of an independent
 26 candidate for any office for which candidate for nomination
 27 are voted for in this primary.

28 Each page shall be divided into columns, in the first of which
 29 the names signed shall be numbered consecutively, and this column

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30 shall be headed "Number;" in the next column the names shall
 31 be written, and headed "Names of Voters;" and in the next resi-
 32 dence of the voter shall be stated (giving name of street and
 33 number, if the signer is a resident of a city or town in which the
 34 houses in the streets are numbered), and headed "Residence."
 35 At the end of the affirmation book the commissioner or commis-
 36 sioners who administer the oath to the signers shall make and
 37 sign a certificate in this form or to this effect:

38 I, (or we) hereby certify that the voters whose names are
 39 written in this book, aggregating (here state in words at
 40 length the whole number of signers), severally made oath be-
 41 fore me (or us) to the affirmation appearing on each page there-
 42 of. Given under my (or our) hand (or hands), this.....
 43 day of....., 19....

44 If any voter is unable by reason of illiteracy or physical dis-
45 ability to write his name, the same may be written in the affirma-
46 tion book by one of the clerks or commissioners and the voter's
47 mark thereto witnessed by such clerk or commissioner.

48 Each person whose name is signed under the affirmation shall
49 be conclusively presumed to have made oath thereto in due form.
50 When the polls are closed said affirmation books shall be sealed up,
51 each commissioner and clerk writing his name over the places
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52 where sealed, and returned to the clerk of the circuit court with
53 the other returns of the election. Such packages will be labeled
54 "Affirmation Books of Precinct No. of District
55 of County, West Virginia, of Primary Election of
56 19. . . .

57 Names of voters should be written on the affirmation and poll
58 books as they appear on the registration list: for example, if the
59 voter's name is John B. Smith and is so entered on the registra-
60 tion list, it should be so entered on said book, and not written
61 thereon as "J. B. Smith."

Procuring Ballots, Poll Books and Other Supplies

Sec. 32. The board of ballot commissioners shall prepare
2 the forms or "copy" for the ballots, poll books, tally sheets,
3 certificates and all other blanks and printed matter, and prescribe
4 the kinds and qualities of supplies needed for the election, in-
5 cluding wrappers and wrapping paper, envelopes, twine, pencils,
6 pens, ink, sealing wax or mucilage or paste at each precinct. The
7 printing of the ballots and all other matter required to be printed,
8 shall be let to the lowest responsible bidder or bidders. Separate
9 bids shall be invited for the ballots; and for the poll books and
10 other matter to be printed, one or more bids shall be invited, as
11 the ballot commissioners may determine. If the same responsible
12 bidder is the lowest for all such printing, the contracts therefor

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13 shall be awarded to him; otherwise the contracts shall be let to
14 the lowest responsible bidder for each class of work, the other sup-
15 plies shall be procured at the lowest prices. The cost of pro-
16 curing such supplies and of the printing shall be certified by the
17 clerk of the circuit court to the county court, and the county
18 court shall cause the same to be paid for in the manner that other
19 election expenses are paid. The ballots, poll books, tally sheets,
20 certificates, blanks, and other supplies shall conform to the forms

21 and recommendations of the attorney general, pursuant to sec-
22 tion seventy-four of this act.

23 The board of ballot commissioners or the clerk of the circuit
24 court shall cause to be printed on the appropriate ballot the name
25 and residence of every candidate certified to him as provided by
26 this act and of every candidate who has complied with the provi-
27 sions of this act. The names of candidates shall be printed on the
28 ballot alphabetically according to the surname under the titles
29 of the respective officers.

Sec. 33. If the printer of such ballots, or any person employ-
2 ed in printing the same, or any other person, shall give or deliver,
3 or knowingly permit to be taken, any of said ballots, by any person
4 other than a member of the board of ballot commissioners for
5 whom such ballots are being printed, any ballot in any other form
6 than the one prescribed by this act, except specimen ballots as
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7 provided in the next section, or with any other name therein, or
8 with the names spelled, or the names thereon arranged, in any
9 other way than that authorized and directed by the said board of
10 ballot commissioners, he shall be guilty of a misdeameanor and on
11 conviction thereof, shall be fined not less than ten nor more than
12 one hundred dollars, or be imprisoned in the county jail not ex-
13 ceeding six months, or be both fined or imprisoned, in the dis-
14 cretion of the court.

Sec. 34. The contractor for printing the official ballots
2 shall furnish to any voter of the county who may apply and pay
3 in advance for the same, at rates to be prescribed by the board of
4 ballot commissioners, specimen ballots printed on paper of a
5 cheaper quality than that used for the official ballots and of
7 shall be different from any of the colors selected for the various
6 a color to be designated by the Secretary of State, which color
8 party ballots. Such specimen ballots shall be printed from the
9 same type form for any magisterial district, as may be ordered by
10 the purchaser, as the official ballots are printed from, so that
11 said specimen ballots shall in all respects be similar to the of-
12 ficial ballots, except as to the color and quality of the paper,
13 and except that at the top, above the heading, and outside of the
14 heavy border inclosing the ballot, shall be printed in plain black
15 face type the words "Specimen Ballot—Cannot be used for vot-
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16 ing." and except that there need be no printing on the back of said
17 specimen ballots. If the printer shall violate any provision of

18 this section, or if any other person other than the printer having
19 the contract for printing the official ballots, shall print any bal-
20 lot purporting to be such official ballot or such specimen ballots,
21 he shall be punished as provided in the last preceding section.

Sec. 35 The board of ballot commissioners shall, for the
2 primary election to be held in their county in the year one
3 thousand nine hundred and sixteen, have printed at least three
4 ballots of each political party for each voter of such party in
5 their county, as shown by the votes cast therein at the election
6 held in the year one thousand nine hundred and twelve, or one
7 thousand nine hundred and ten, at whichever of said elections the
8 largest number of votes were cast, and thereafter, they shall have
9 printed a like number of such ballots for each vote cast for each
10 political party in their county at the last preceding general elec-
11 tion held therein. The ballots so printed shall be wrapped and
12 tied in packages, each political party in a separate package, one
13 of the packages designated for each of the political parties for each
14 place of voting in the county, each package containing three times
15 as many ballots as the estimated number of votes to be cast at that
16 voting place for that political party, and there-after con-
17 taining three such ballots for each of said votes cast at said place
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18 of voting at the last preceeding general election held thereat.
19. Each package of ballots shall be sealed with wax, and plainly
20 marked with the number and kind of ballots therein, the name of
21 the magisterial district, and the number of the voting place there-
22 in, to which it is intended to be sent. The names of the ballot
23 commissioners shall also be endorsed thereon.

Sec. 36. It shall be the duty of the board of ballot commis-
2 sioners to appoint one of the commissioners of election at each
3 precinct of the county to attend at the office of the clerk of the
4 circuit court, not more than four nor less than two days before
5 each primary election, to receive the ballots for the place of voting
6 at which he is appointed to act, and the said clerk shall deliver to
7 him the sealed packages of ballots provided for his precinct by the
8 said board, and the poll bookes, ballot boxes, and all other blanks
9 and things provided for such precinct, and take from him a receipt
10 for the same, which shall be filed in the office of the clerk of the
11 circuit court. It shall be the duty of such commissioner so to at-
12 tend at said clerk's office and receive the said ballots and so forth
13 and deliver the same, with the seals of all sealed packages unbroken,
14 at this election precinct in time to open the election, and also at-

15 tend at the office of the clerk of the county court and receive from
16 him the book of registered voters for his precinct.

Sec. 37. In case any commissioner of elections so appointed

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2 shall fail to appear at the office of the clerk of the circuit court
3 of his county by the close of the second day prior to any election
4 as required by the preceding section, the board of ballot commis-
5 sioners or the chairman thereof shall forthwith dispatch a special
6 messenger to his precinct with the ballots, poll books, and other
7 supplies for such precinct. Such messenger shall be allowed two
8 dollars for his time and five cents per mile for the distance neces-
9 sarily traveled by him, and shall promptly report to the clerk of
10 the circuit court and file with him the receipt of the person to
11 whom he delivered such ballots and so forth, and b's affidavit,
12 stating when and to whom he delivered them.

Sec. 38. Any commissioner of elections who shall wilfully or
2 negligently fail to appear at the office of the clerk of the circuit
3 court in his county, as provided in section thirty six, shall be
4 guilty of a misdemeanor; and on conviction thereof, shall be fined
5 not less than five dollars nor more than one hundred dollars, and
6 shall thereafter be incompetent to serve as a commissioner of elec-
7 tions at any election.

Sec. 39. If by accident or casualty, the ballots, ballot boxes,
2 poll books, or any of the other supplies delivered to commissioner
3 of elections, or to any messenger, shall be lost or destroyed, it
4 shall be the duty of such commissioner or messenger to report the
5 loss forthwith to the board of ballot commissioners or the clerk of
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6 the circuit court from whom the same were obtained, and make
7 affidavit of the circumstances of the loss; whereupon such board or
8 clerk shall at once send a new supply by special messenger, as pro-
9 vided in other cases. In case, for any reason, there should be
10 found no ballots, or ballot boxes, or other necessary means or
11 contrivances for voting, at the opening of the polls at any precinct,
12 it shall be the duty of the commissioners of elections to secure the
13 same speedily as possible, and if necessary, such commissioners may
14 have ballots printed or written, or ballot boxes made; provided,
15 however, that such ballots shall conform as nearly as possible to the
16 genuine ballots, and the printing or writing, and the care of the
17 same, and of said ballot boxes shall be under the same provisions

18 and penalties as the printing and care of the other ballots and other
19 ballot boxes, prescribed in this chapter.

Sec. 40. The clerk of the circuit court shall preserve the
2 ballots that are left over after supplying the precincts as herein-
3 before provided, until the close of the polls on the day of election,
4 when said ballots shall be destroyed by such clerk by fire or other-
5 wise. If he fail to do he shall be guilty of a misdemeanor, and
6 fined not less than twenty nor more than one hundred dollars.

Sec. 41. All ballots used in primary elections shall be printed
2 on paper conforming as nearly as practicable in weight, texture and
3 color to the sample furnished by the secretary of state and the
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4 paper shall be sufficiently thick that the printing cannot be dis-
5 tinguished from the back. Each ballot shall be inclosed in a heavy
6 black border. The names of candidates shall be printed in one
7 or more columns on each ballot. If the printing of the names of
8 candidates shall make the ballot at any election too long for con-
9 venience in handling, two or more columns may be used, in which
10 event each column shall be separated from the other by a heavy
11 rule, and the heading at the top shall extend across all the columns.
12 The heading shall be as follows: "Official Ballot of the 'name of the
13 political party) Party, Primary Election, 19. . . . Instruc-
14 tions to voters: To vote for a candidate for first choice make an
15 X in the square opposite and to the left of his name in the column
16 headed "First Choice." To vote for a candidate for second choice
17 make an X in the square opposite and to the left of his name in
18 the column headed Second Choice. Your vote cannot be counted
19 for the same candidate for both first and second choice." The
20 heading shall be separated from the rest of the ticket by a ruled
21 line extending across from the outside border on each side.

22 To the left of each column of names on the ballot there
23 shall be two columns, the first whereof shall be headed "First
24 Choice," and the next "Second Choice," separated from each other
25 and the other matter on the ballot by the ruled lines. The name
26 of each candidate shall be separated from other matter by being
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27 inclosed in a space defined by a light rule, which shall extend
28 across the entire ballot or column and in such manner as to form,
29 in each of the columns headed first choice and second choice and

30 opposite each candidate's name, a blank square or box, in which
31 the voter may place the X mark to indicate his choice.

32 The ballots, except the headings shall be printed in brevier
33 type; the name and designation of the office and the residence
34 of the candidate in the lower case letters, and the name of each
35 candidate in capital letters, the words "First Choice" and "Second
36 Choice" in the columns on the ballot may be printed in a condensed
37 legible type. The name of the candidate and his residence may
38 be printed in the same line. For a candidate to be voted for
39 by the voters of more than one county, and for a candidate for
40 state senator, it shall be sufficient as to his residence if the name
41 of the county of which he is a resident is printed. For a candi-
42 date for a county or magisterial district office, including a candi-
43 date for house of delegates to be voted for in one county only, it
44 shall be sufficient as to his residence if the name of the magisterial
45 district be printed.

46 Immediately following the names of the candidates for any
47 office there shall be left two blank spaces, defined by ruled lines,
48 at least three-eighths of an inch wide, for each candidate to be
49 chosen for that office, in which the voter may write the name of

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50 any candidate he desires to vote for for that office, either for first
51 or for second choice or both, and whose name is not printed on
52 the ballot. If the name of no candidate is printed on the ballot
53 for any office to be filled at the ensuing election or no candidate for
54 any political committeeman to be elected at such primary election,
55 there shall be left under the proper heading, twice as many blank
56 spaces, defined by ruled lines as aforesaid, as there are candidates
57 or committeemen to be elected or nominated, in which voters may
58 write the names of candidates as aforesaid.

59 The names of the candidates on the ballot shall be arranged
60 in groups, with a heading over each group in heavy face brevier
61 type to indicate the political division from which they are can-
62 didates.

63 Below the name of each office shall be printed in small type,
64 as instructions to the voter, the number of candidates to be nomi-
65 nated for that office. If, for example, the number be one, there
66 will be printed the words "Vote for One," which will instruct the
67 voter that he may vote for one candidate for first choice for that
68 office and another candidate for second choice. If there are two

69 or more candidates to be nominated for any office the wording
70 will be changed according to the fact.

71 On the back of the ballot shall be printed in black ink and in
72 plain, legible black pica type the name of the political party, as
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73 contained in the heading, followed by the word "Ballot." Under
74 this designation shall be printed blank lines, followed by the words
75 "Poll Clerks." On one of these lines each poll clerk shall per-
76 sonally write his name (in the presence of the voter for whom the
77 ballot is to be given, if the voter shall so request) with pen and
78 ink or with indelible pencil.

79 The ballot shall conform as nearly as practicable to the form
80 here given (supposing it to consist of two columns under the
81 heading) :

82 OFFICIAL BALLOT
83 --OF--
84 The.....Party
85 Primary Election, 19....

86 *Instructions to Voters.* To vote for a candidate for First
87 Choice make an X in the square opposite and to the left of his
88 name in the column headed "First Choice." To vote for a can-
89 didate for Second Choice make an X in the square opposite and to
90 the left of his name in the column headed "Second Choice."
91 You cannot vote for the same candidate for both first and second
92 choice.

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93	NATIONAL	
94	For President of U. S.	
95	(Vote for one)	
96	A..B.....of.....	
97	C..D.....of.....	
98	For United States Senator	
99	(Vote for one)	
100	A..B....., of County.	
101	C..D....., of County.	

102 E..F....., of County,

103 For Congress—1st District

104 (Vote for one)

105 A..B....., of County.

106 C..D....., of County.

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107 STATE

108 For Governor

109 (Vote for one)

110 A..B....., of County.

111 C..D....., of County.

112 E..F....., of County,

113 2nd JUDICIAL CIRCUIT

114 For Judge

115 (Vote for one)

116 A..B....., of County.

117 C..D....., of County.

118 1st SENATORIAL DISTRICT

119 For State Senator

120 (Vote for one)

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121 A..B....., of County.

122 C..D....., of County.

123 For State Executive Committee

124 (Vote for Two)

125 A..B....., of County.

126 C..D....., of County.

127 E..F....., of County.

128 G. . H., of County.

129 Under the heading of "state" on the ballot there shall follow
 130 governor, in order, the names of the offices and of candidates for
 131 secretary of state, state superintendent of free schools, auditor,
 132 treasurer, attorney general, commissioner of agriculture, any
 133 other state office, judges of the supreme court of appeals, and any
 134 other person or object to be voted for by the voters of the entire
 135 state. The other groups and divisions with names of offices and
 136 candidates therefor, shall follow in this order: judicial circuit;
 137 senatorial district; county; magisterial district; county com-
 138 mittee. If there shall be other offices to be filled or objects to be
 139 voted on by a division less than the entire state, the place thereof
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140 on the ballot shall be prescribed by the attorney general and the
 141 governor, as provided in section seventy-four.

Voting.

Sec. 42. The mode of voting in all elections held under this
 2 act shall be by ballot. On entering the election room the voter
 2 shall announce his name and the name of the party ballot he de-
 4 sires to vote in an audible voice to the commissioners, clerks and
 5 challengers. If his name does not appear on the list of registered
 6 voters of the precinct certified by the clerk of the county court,
 7 unless he have a certificate of transfer as provided in section eleven
 8 of chapter forty-five of the acts of nineteen hundred and eleven,
 9 he shall not be allowed to vote, but shall retire from the election
 10 room. If his name does appear on such list or he have such cer-
 11 tificate of transfer, he shall then sign the proper affirmation book
 12 and take the required oath, and shall receive from one of the clerks
 13 one ballot, and one only (except as hereinafter provided) of the po-
 14 litical party of which he has affirmed he is a member, and shall
 15 then forthwith retire to one of the booths, and there prepare his
 16 ballot. Before leaving the booth the voter shall fold his ballot so
 17 that the face thereof shall not be exposed and so that the printing
 18 on the back and the signatures of the clerks thereon can be seen;
 19 and he shall then quit the booth and hand his ballot to one of the
 20 commissioners, who shall proclaim in a loud and distinct voice the

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21 voter's name, and hand the ballot to another of said commissioners
 22 of a different political party than his own, and if a majority of the
 23 commissioners are satisfied that the ballot is single, and is folded

24 as above prescribed and bears the signatures of the clerks, and that
25 the person is entitled to a vote at the said election and to vote the
36 party ballot he offers to vote, one of the commissioners shall de-
37 posit the ballot in the ballot box, and the poll clerk shall enter the
38 name of the voter on the poll book, numbering the voters in the or-
39 der in which they vote, and indicate which party each voted. The
40 commissioners may inspect any ballot before it is deposited in the
41 ballot box, to ascertain whether it is single, but without unfolding
42 or unrolling it so as to disclose its contents. When the voter has
43 voted, he shall retire immediately from the election room and be-
44 yond the sixty feet limit thereof.

Sec. 43. Not more than one voter for each booth or compart-
2 ment shall be allowed in the election room at one time. Not more
3 than one person shall be permitted to occupy any booth or compart-
4 ment at one time; and no person shall remain in or occupy a booth
5 or compartment longer than may be necessary to prepare his ballot,
6 and in no event longer than five minutes. No voter or person of-
7 fering to vote shall hold any conversation or communication with
8 any other person than the poll clerk or commissioners of election
9 while in the election room.

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Sec. 44. Any voter who shall spoil, deface or mutilate the
2 ballot delivered to him, may on returning the same to the poll
3 clerk, receive another in place thereof, but no voter shall so receive
4 more than three ballots. Every person who does not vote any
5 ballot delivered to him, shall before leaving the election room re-
6 turn such ballot to the poll clerks. When a spoiled or defective
7 ballot is returned, the poll clerks shall make a minute of the fact,
8 as provided in section fifty-nine.

Sec. 45. The voter shall prepare his ballot in the booth, by
2 making an X in the appropriate square to the left and opposite
3 the name of the candidate for any office for whom he desires to
4 vote as his first choice for that office; and he may make an X in
5 the appropriate square to the left and opposite the name of another
6 candidate for the same office for whom he desires to vote as his sec-
7 ond choice for that office. He shall place but one mark in any
8 one designated space.

9 If a voter either in the first or in the second choice column, for
10 two persons, such vote shall be counted as a first choice vote for the
11 person voted for whose name appears in such column, and a second

12 choice vote for the person voted for whose name appears lower in
13 such column.

14 A vote for one person only, shall be counted as a first choice
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15 vote, whether the voter places his cross in the first or in the sec-
16 ond choice column.

17 A first and second choice vote cast for the same person shall
18 be counted as a first choice vote only for such person.

19 If the voter desires to vote for a candidate or person whose
20 name is not printed on the ballot, he shall write such name in the
21 blank space provided, and make an X in the appropriate square to
22 the left and opposite the written name, according to whether he
23 desires to vote for such candidate or person for first or second
24 choice. If there are no candidates' names printed on the ballot for
25 any office for which candidates are to be chosen at such election,
26 the voter may write the names of the persons he desires to vote for
27 as first and second choice, and indicate his preference between or
28 among them as his first choice by marking in the appropriate
29 squares as aforesaid. Where there are more candidates than one
30 to be chosen for the same office, such as delegates to the legislature
31 in a county to elect more than one delegate, the voter may indicate
32 a first and second choice for each candidate to be chosen. In pre-
33 paring his ballot the voter shall use a black lead pencil or an in-
24 delible pencil. No ballot shall be rejected wholly or in part for
25 any technical error which does not make it impossible to determine
26 the voter's choice.

Sec. 46. No voter shall receive any assistance whatever in the
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2 election room in the preparation of the ballot, unless he cannot
3 read, write, or is physically disabled, that is, unless he is blind, par-
4 alyzed or otherwise incapacitated manually to prepare his ballot.
5 Such voter desiring assistance from the election officers, shall
6 make affidavit before one of the election commissioners, declaring
7 that he desires assistance in the preparation of his ballot because
8 he cannot read and write, or because of physical disability (stating
9 the nature thereof), and that he desires such assistance for that
10 reason and for no other reason. If the majority of the election
11 commissioners are satisfied that the affidavit is true, two of the
12 election officers, each of opposite politics from the other, shall ac-
13 company such voter into the booth and there prepare his ballot as
14 he requests. All such affidavits shall be returned with the other

15 returns to the clerk of the Circuit Court, who shall, after the re-
 16 sult of the election is canvassed and declared, deliver such
 17 affidavits to the prosecuting attorney of the county. Any person
 18 who shall swear falsely to such affidavit shall be guilty of per-
 19 jury, and punished accordingly.

Sec. 47. No commissioner of election shall deposit in the
 2 ballot box any ballot upon which the name of the poll clerks and
 3 the name of the political party do not appear on the back thereof,
 4 as hereinbefore provided.

Sec. 48. No person shall remove or attempt to remove a bal-

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2 lot from the election room, or have in his possession outside the
 3 election room during the election, any ballot, either genuine or
 4 counterfeit, except the specimen ballots named in section thirty-
 5 five. A voter may take a specimen ballot into the booth to assist
 6 him in preparing his ballot.

Time Allowed Employees to Vote.

Sec. 49. Any employee entitled to vote at any primary elec-
 2 tion shall, if necessary, be allowed to absent himself from the ser-
 3 (vice or employment in which he is then engaged or employed on the
 4 day of the primary election, for the space of one hour if he live in
 5 an incorporated city or town, or two hours if he does not live there-
 6 in. Such employee shall not be liable to any penalty on account of
 7 such absence, nor shall any deduction be made from his usual sal-
 8 ary or wages therefor; *provided*, that application for such leave
 9 of absence be made prior to the day of such primary, and that
 10 the employer may specify the hours during which an employee
 11 may so absent himself.

Card of Instruction to Voters.

Sec. 50. The board of ballot commissioners of each county
 2 shall cause to be printed in large, clear type, on cards, instruc-
 3 tions for the guidance of voters in preparing their ballots. They
 4 shall furnish twelve of such cards to the commissioners of elec-
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5 tions at the same time they deliver to him the ballots for his
 6 precincts. The commissioners shall cause to be posted one of
 7 said cards in each booth or compartment provided for the prepa-
 8 ration of the ballots, and the others in and about the polling
 9 place, and one or more of the cards outside of the sixty-foot line,
 10 upon the day of election. Said cards shall contain full instruc-

11 tions to the voters as to what shall be done; (1) to obtain bal-
12 lots for voting; (2) to prepare the ballots for deposit in the bal-
13 lot boxes; (3) to obtain a new ballot in place of one accidentally
14 spoiled. Said ballot commissioners shall also furnish for each
15 election precinct ten or more copies of the specimen ballots nam-
16 ed in section thirty-five which shall be posted with the cards of
17 instruction at each voting place, and marked so as to indicate the
18 manner of marking the ballot by the voter.

Persons Accused of Illegal Voting.

Sec. 51. If at any time during an election held under the
2 provisions of this chapter, any qualified voter shall make affidavit
3 before a commissioner of elections, that any person who has voted
4 is an illegal voter in such precinct, or has illegally voted thereat,
5 or that any person in voting or in attempting to vote has made a
6 false affidavit or sworn falsely, the person accused shall at once
7 be arrested by any constable or other person designated by the
8 election commissioners or any one of them, to make the arrest,

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9 and by him delivered to the civil authorities. Any qualified
10 voter desiring to make such affidavit shall be admitted to the elec-
11 tion room for that purpose. Immediately after the close of the
12 election, the commissioners of election shall deliver such affidavit
13 to some justice of the peace in the magisterial district who shall
14 proceed thereon as if the affidavit had been made before him.

The Sixty-Foot Limit.

Sec. 52. No person, excepting the election officers (includ-
2 ing the challengers) and voters while going to the election room
3 to vote and returning therefrom, shall be or remain within sixty
4 feet of said room; but this section shall not apply to persons liv-
5 ing or carrying on business within that distance of the election
6 room, in the discharge of their legitimate business, or to persons
7 whose business requires them to pass and repass within sixty feet
8 of such room.

Opening the Packages of Ballots.

Sec. 53. At or before the opening of the polls, the commis-
2 sioners of election shall open each package of ballots in such a
3 manner as to preserve the seals intact, and then deliver the bal-
4 lots to the poll clerks.

Prevention of Disorder at the Polls.

Sec. 54. The commissioners of election shall preserve or-
 2 der at and in the vicinity of the polls, and keep the way to the
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3 polls open and free from obstruction, and may direct disorderly
 4 persons to be removed therefrom; and, if necessary and proper, to
 5 be taken and held in custody until sunrise of the next day, or for
 6 any shorter time, which may be done by any sheriff or constable
 7 or other person designated by the commissioners, and for such
 8 purpose no warrant nor authority in writing shall be necessary;
 9 and the jail of the county or other place designated by the com-
 10 missioners may be used as the place of custody; but any person
 11 so arrested shall have an opportunity to vote, if he be entitled to
 12 do so promptly.

Sec. 55. Any person offending against the provisions of the
 2 next preceding chapter, notwithstanding his having been in cus-
 3 today, as aforesaid, shall be liable to any penalty or punishment
 4 for his offense prescribed by law; and any person who, being
 5 thereto commanded by the commissioners of elections or either of
 6 them verbally or in writing, shall fail or refuse to assist to the
 7 utmost of his power, in whatever may be necessary or proper to
 8 prevent intimidation, disorder or violence at the polls, shall for-
 9 feit not exceeding two hundred dollars.

Ascertaining the Result at the Several Election Precincts.

Sec. 56. When the polls are closed the commissioners of
 2 elections and poll clerks shall proceed to ascertain the result of
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3 the election in the manner hereafter specified, and shall not ad-
 4 journ nor delay, until the votes are all counted, the result ascer-
 5 tained, the certificates made, and all other things done as herein
 6 specified. They shall proceed as follows:

7 (1) Ascertain and state the aggregate number of persons
 8 voting, etc., and make certificate on the poll books, as prescribed
 9 in section thirty-two.

10 (2) Seal up securely in packages all unused ballots (keep-
 11 ing the ballots of each party separately), marking each package
 12 "Unused Ballots of Party from Precinct
 13 No....., District of County, West Va., Primary
 14 election of19..." Each commissioner and clerk
 15 shall write his name across the place where sealed.

16 (3) Seal up securely in a separate package all spoilt and

17 defective ballots marking the same "Spoilt and Defective Bal-
 18 lots from Precinct No.....of.....District of
 19County, West Virginia, Primary Election of
 2019....." Each commissioner and clerk shall
 21 write his name across the places where sealed.

22 (4) Each commissioner and clerk will sign his name, be-
 23 ginning immediately up under the last entry on the last page or
 24 sheet thereof of the memorandum of spoilt and defective ballots,
 25 as provided in section fifty-nine, which memorandum is to be
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26 sealed up with the poll books and returned to the clerk of the
 27 Circuit Court.

28 (5) If any ballots have been destroyed by accident or oth-
 29 erwise, a statement shall be made thereof, in which shall be stated
 30 how they were destroyed, the number and kind destroyed, if
 31 known; if not known, an estimate of the number of each kind
 32 shall be made. Such statement shall be signed by each commis-
 33 sioner and clerk and shall be sealed up with the boll books and be
 34 returned to the clerk of the Circuit Court.

35 (6) The ballot box shall be opened and the ballots taken
 36 out, the ballots of each political party being very carefully plac-
 37 ed in a separate pile, but no ballot shall be unfolded or unrolled
 38 so as to disclose its contents. When all the ballots are taken out
 39 the ballots of each political party shall be severally and carefully
 40 counted and the number compared with the number of such bal-
 41 lots cast as shown by the footings on the'poll books. If the count
 42 shows that the number of ballots of any political party is greater
 43 (than the number shown on the poll books, and when the clerks
 44 and commissioners are satisfied that the count of the ballots and
 45 the footings on the poll books are correct, the number of such ex-
 46 cess ballots shall be removed from the middle of the pile of bal-
 47 lots, or in some other impartial way.

48 (7) After completing the count of the ballots as prescribed
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49 in the preceding section, the excess ballots (if any) of each polit-
 50 ical party shall then be securely sealed up in a separate package,
 51 marked "excessParty Ballots from Precinct No.....
 52 of.....District ofCounty, West Va., Primary
 53 Election of19..." Each commissioner and clerk
 54 shall sign his name across each place where each package is seal-

55 ed. Such package shall be returned with the other returns of the
56 election to the clerk of the Circuit Court. The commissioners
57 and clerks shall make a certificate on the poll books of the num-
58 ber of excess ballots of each political party found by them. The
59 several piles of ballots, except the first to be tallied, shall then be
60 tied up separately, in order to prevent their loss or being mixed
61 with other ballots.

62 (8) There shall be a separate tally sheet in duplicate for
63 each political party, upon which shall be tallied the votes cast for
64 every candidate voted for on any ballot of that party. One of the
65 commissioners shall take a ballot and after unfolding it shall
66 hand it to another commissioner of opposite politics, who shall,
67 in sight of the other commissioners and the challengers, call off
68 the names of every candidate voted for, distinguishing between
69 first and second choice, and the clerks shall tally separately and in
70 different spaces each first and second choice vote cast for each
71 candidate. Each ballot shall be strung on a thread after it is
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72 called off. The form of the tally sheet and of the tally shall be
73 substantially as follows:

74 TALLY SHEET OF PARTY BALLOTS.
 75 Of Primary Election held at Precinct No.....of.....District
 76 of.....County, West Va., on....., 19.....
 FOR GOVERNOR.

Candidates.	First Choice	Second Choice.			
		A. B.	C. D.	E. F.	G. H.
A. B.	50		30	15	5
C. D.	40	25		10	5
E. F.	25	15	7		3
G. H.	5	3	1	1	

77 (9) After the ballots of any political party are tallied, and
 78 before beginning the tally of those of another party, the commis-
 79 sioners and clerk shall seal up the ballots already tallied in a
 80 package, writing their names across the places where sealed, and
 81 marking the package, "Ballots ofParty voted at Pre-
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82 cinct No.ofDistrictCounty,
 83 West Va., at the Primary election held19...."
 84 Each such package shall be returned to the clerk of the Circuit
 85 Court with the other returns of the election.

86 (10) After the ballots of each political party are all tallied
 87 and sealed up, the commissioners and clerks shall prepare the
 88 certificates of the result, which shall show the number of votes
 89 cast for each candidate for first choice and for second choice for
 90 each office on such political party ballot and shall sign the same;

91 which certificate for each party shall be substantially in form as
92 follows:

93 CERTIFICATE OF RESULT FOR..PARTY CANDIDATES

94 We, the undersigned, commissioners and poll clerks of the
95 primary election held at Precinct No.....of.....
96 District of theCounty, West Virginia, on the
97day of19..., do hereby certify that
98 having been first duly sworn, we have carefully and impartially
99 ascertained the result of said election at said precinct for the
100 candidates on the official ballot of the party, and
101 the same is as follows:

102 For the office of Governor, A.... B.... ofCounty,
103 for first choice received votes, and for second choice
104 received votes.

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105 For the office of Governor, C.... D....of.....County,
106 for first choice receivedvotes, and for second choice
107 received votes. ,

108 For the office of Governor, E.... F....,of.....Coun-
109 ty, for the first choice received votes, and for second
110 choice received votes.

111 (And so on as to each office for which any candidate was vot-
112 ed for, stating as to such office the number of votes cast (in words
113 at length and in figures) for each candidate for first and for sec-
114 ond choice for such office.)

115 Given under our hands this day of 19....

116 (Signatures of the commissioners and clerks.)

117 (11) One of each of such certificates shall be posted on
118 the front door of the building in which the election is held and
119 one shall be given to each commissioner, clerk, and challenger
120 who shall demand it, and one shall be sealed up with each poll
121 book, and one shall be sealed up in an envelope addressed to the
122 clerk of the circuit court.

123 (12) One poll book, with one tally sheet and one certificate
124 and the book of registered voters and all certificates of transfer
125 voted on, shall be sealed up in a separate package, addressed to
126 the clerk of the circuit court. The other poll books with their
127 tally sheets, the other certificates, the statement of lost, destroyed,

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128 and spoilt and defective ballots, shall be sealed up in another
129 package and addressed to the clerk of the circuit court.

Returns to be Returned Without Delay.

Sec. 57. It shall be the duty of the commissioner of elections
2 at each precinct who was appointed to attend at the office of the
3 clerk of the circuit court and receive the ballot boxes, poll books
3a and other supplies for his precinct, without delay to return to the
3b clerk of the circuit court the ballot boxes, and the several packages
4 of ballots, poll books, tally sheets and certificates, (except the pack-
5 ages addressed to the clerk of the county court and described
6 in the preceding section, which package he shall deliver to such
7 clerk,) and all other returns of the election. If for any good rea-
8 son such commissioner cannot act, one of the other commissioners,
9 to be selected by them, shall discharge said duty.

Certain Ballots not to be Counted.

Sec. 58. If two or more ballots be found folded or rolled
2 together and the names thereon the same, one of them only shall
3 be counted, but if the names thereon be different, in any partic-
4 ular, neither of them shall be counted except as hereinafter pro-
5 vided, and, in either case the commissioners of election shall in
6 writing, in ink, place a common number on said ballot and state
7 thereon that they were folded or rolled together when voted. If
8 any ballot be found to contain more than the proper number of

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9 names for any office, such ballot shall not be counted as to such
10 office. Any ballot which is not endorsed with the names of the
11 poll clerks, as provided in this chapter, shall be void and shall
12 not be counted; and any ballot, or part of ballot, from which it is
13 impossible to determine the voter's choice of candidates, shall not
14 be counted as to the candidate or candidates affected thereby.

Defective and Spoiled Ballots.

Sec. 59. On blanks prepared for the purpose by the board
2 of ballot commissioners, the clerks at each precinct by the board of
3 ballot commissioners, the clerks at each precinct shall keep an ac-
4 count of all ballots of each political party found defective or un-
5 fit for voting and of such as are spoilt by voters or otherwise made
6 useless, noting by what person spoilt or made useless, and the
7 kind of ballot and the number spoilt by each person. On the
8 back of each such ballot the clerks shall write the word "Spoilt"
9 or "Defective" as the case may be, and sign their names. At the
10 close of the election the clerks shall enter on each of such blanks
11 in writing the total number of ballots so spoilt and destroyed, and
12 of such defective ballots, and close up under such statement each

13 commissioner and clerk shall sign his name. All such spoilt and
 14 defective ballots shall be sealed up in a separate package and
 15 marked "Spoilt and Defective Ballots from Precinct No.
 16 of District ofCounty, Primary Election of,

17 19....." Each commissioner and clerk shall write his name

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18 across the place where such package is sealed; and the package
 19 shall be returned to the clerk of the circuit court with the other
 20 returns of the election.

Canvassing Board.

Sec. 60. The Commissioners of the county court shall
 2 be *ex-officio* a board of canvassers of the primary, and as such
 3 shall keep in the book marked "Primary Election Record,"
 4 a complete record of all their proceedings in ascertaining
 5 and declaring the result of every primary election in their
 6 respective counties. They shall convene as such canvassing board at
 7 the court house on Friday after every primary election held in their
 8 county or in any district thereof, and the officers in whose
 9 custody the ballots, poll-books, tally-sheets and certificates,
 10 etc., have been placed shall lay the same before them for
 11 examination. They may, if deemed necessary, require the
 12 attendance of any of the commissioners, poll-clerks or other per-
 13 sons present at the primary election, to appear and testify respect-
 14 ing the same, and make such other orders as shall seem proper, to
 15 procure correct returns and ascertain the true result of said pri-
 16 mary election in their county, but in such cases all of the questions
 17 to the witnesses and all the answers thereto, and evidence, shall
 18 be taken down in full and spread upon the record. All orders
 19 made shall also be entered upon the record. They may adjourn
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20 from time to time, but no longer than absolutely necessary, and
 21 when a majority of the commissioners are not present, their meet-
 22 ing shall stand adjourned till the next day, and so on from day
 23 to day, until a quorum be present. The board shall canvass the
 24 returns for each political party separately and declare the results
 25 thereof before proceeding to canvass the returns for another polit-
 26 ical party. The board, before proceeding to canvass such returns,
 27 may if deemed necessary for any political party, open any sealed
 28 package of ballots so laid before them of that political party and
 28a without unfolding them, count the number in each package and

28b enter the same upon their said record. The ballots shall
29 then be again sealed up carefully in a new envelope, and each
30 member of the board shall write his name across the place where
31 said envelope is sealed, marking the package as originally labeled,
32 and adding thereto the words "Counted by the county court." Af-
33 ter canvassing the returns of the primary election for each political
34 party, the board shall, upon the demand of any candidate voted for
35 at such election; open and examine any one or more of the sealed
36 packages of ballots of the political party of which he was a candi-
37 date, and recount the same; but in such case they shall seal up
38 the same again, along with the envelope above named, and the
39 clerk of the county court, and each member of the board shall
40 write his name across the place or places where it is sealed, and en-

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41 dorse in ink on the outside the original label and add thereto the
42 words "recounted by the county court." No recount of ballots
43 shall be made until the result has been canvassed for all the po-
44 litical parties having official ballots in the primary. Any candi-
45 date desiring a recount of any ballots shall make such demand im-
46 mediately after the preliminary canvass of the returns has been
47 completed, or before the recount, demanded by any othr candidate,
48 of such ballots, has been begun, so that the recount of the ballots
49 of any political party of any precinct shall be made as to all the
50 candidates desiring such recount at the same time and so as to
51 avoid successive recounts of the same ballots. When they have
52 made their certificates and declared the result as hereinbefore pro-
53 vided, they shall deposit the sealed packages of ballots, poll-books,
54 tally-sheets, and precinct certificates, with the clerks of the county
55 and circuit courts, from whom they were received, who shall care-
56 fully preserve the same for one year, and if there be no contest
57 pending as to any such primary election, said ballots, poll-books,
58 tally-sheets and certificates shall be destroyed by fire or otherwise,
59 without opening the sealed packages of ballots; and if there be
60 such contest pending, then they shall be destroyed as soon as said
61 contest is ended. If the result of the primary election is not
62 changed by such recount, the cost and expenses thereof shall be
63 paid by the person or persons at whose instance the same was made.

64 If such costs and expenses exceed five dollars, the board shall
65 make up a statement thereof, showing therein the proportion there-
66 of to be paid by each person who demanded a recount of any
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67 ballots, and enter the same on said record book. The clerk of the
 68 county court shall make a copy thereof, and charge the amount
 69 of such costs and expenses shown therein to the account of the
 70 sheriff, and deliver such statement to the sheriff, who shall collect
 71 the same in the same manner as other court costs are collected.

Sec. 61. When any such election is held in the county or
 2 any district thereof, the board of canvassers of the county, or a
 3 majority of them, under the regulations prescribed in the next
 4 preceding section, shall carefully and impartially ascertain the
 5 result of such election in the county and in each district and elec-
 6 tion precinct thereof, and cause to be prepared and recorded in said
 6a election precinct record book a table or tables which shall show as
 7 to each candidate of each political party for each office for which
 8 candidates were voted for, the number of votes cast for him for first
 9 choice and for second choice separately at each precinct, the total
 10 number thereof in each district and the total number thereof in
 11 the entire county. The board shall then make up and enter in
 12 said record book a certificate for each political party, showing as to
 13 each candidate of each political party for each office for which can-
 14 didates were voted for, the total number of votes (in words at
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15 length and also figures) cast for him for first and second choice
 16 of the entire county, which certificate shall be in the following
 17 form or to the following effect:

18 The board of canvassers of the county of.....State of
 19 West Virginia, having carefully and impartially examined the
 20 returns of the primary election held in said county, and in each
 21 district and at each precinct thereof, on theday of....
 2219....., do hereby certify that in said county at said elec-
 23 tion, on the official ballot of the party for the office of
 24 A.... B...., ofCounty, received....
 25 votes for first choice; and votes for sec-
 26 ond choice; C.... D...., of county, received
 27 votes for first choice and votes for second choice.

28 (And so on as to each particular office for each political par-
 29 ty according to the truth.) When the certificates are all entered,
 30 the record shall be signed by the board or a majority of them.
 31 The said board shall sign separate certificates of the result of the
 32 election within the county, for each of the offices to be filled, for
 33 each political party, as provided in the next section.

Certificates; How Disposed of; Proceeding Thereon.

Sec. 62. The separate certificates of the board of canvassers

2 made pursuant to the preceding section, shall be disposed of by
3 them as follows: Of the certificates respecting the vote for candi-
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4 dates of each political party for President, vice President, United
5 States senator, all state officers, and for all other candidates for
6 any office to be voted for by the voters of a territory embracing
7 more than one county, one shall be sent to the Secretary of State,
8 and one to the chairman of the committee of each political party
9 of the territory in which the candidate was voted for. It shall be
10 the duty of the Secretary of State to lay such certificates received
11 by him before the board of public works at a meeting thereof to be
12 held fourteen days after said primary; and said board shall cause
13 the said certificates to be entered of record in the book wherein is
14 kept the minutes of their proceedings, and to ascertain from said
15 certificates the names of the candidates of each political party and
16 of political party commissioners, duly chosen for each office, as
17 provided in the next succeeding section, and enter the same in
18 their said record book, and cause the same to be published in some
19 newspaper of general circulation published at the state capital,
20 and cause a copy of such newspaper containing the same to be
21 filed with the clerk of the circuit court of every county at least
22 twenty days before the general election.

23 Of the certificates respecting candidates for any office to be voted
24 for by the voters of the entire county only or for any political di-
25 vision less than a county, one shall be delivered to the chairman
26 and one to the secretary of the committee of each political party

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27 of the county, and the clerk of the county court shall forthwith
28 cause one of each such last named certificates to be published in
29 two newspapers of the county one time. It shall be the duty of
30 the chairman and the secretary of every political party committee,
31 within ten days after receiving such certificates, to ascertain there-
32 from as provided in the next section and to certify to the clerk of
33 the circuit court of every county in each political division in which
34 candidates are to be voted for, the name and residence of each can-
35 didate of their political party nominated for each office to be voted
36 for in that political division.

What Candidates Shall be Elected.

Sec. 63. In ascertaining and declaring the results of the
2 primary and the names of candidates nominated or elected, as the
3 case may be, the board of public works and the chairman and sec-

4 retaries of the several party committees in each of the counties
5 shall be guided by the following rules:

6 (a) If any candidate for an office receives a majority of the
7 first choice votes he shall be declared nominated for such office.

8 (b) If no candidate is thus nominated, drop the name of the
9 one having the least number of first choice votes and add the sec-
10 ond choice votes cast by his supporters to the first choice votes of
11 the remaining candidates for whom they were cast.

12 (c) If no candidate then has a majority, drop from the re-
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13 maining candidates the one having the least number of votes then
14 to his credit, and add the second choice votes cast by his support-
15 ers to the votes of the remaining candidates for whom they were
16 cast.

17 (d) Repeat this operation until some candidate has a ma-
18 jority or until only two candidates remain. The one having the
19 greater number of votes to his credit shall be declared nominated.

20 (e) No second choice vote shall be counted when it is cast
21 for a candidate whose name shall have been dropped as herein pro-
22 vided.

23 (f) In all cases where more candidates than one are to be
24 chosen for the same office (such as delegate in the legislature from
25 counties entitled to elect more than one such delegate) every candi-
26 date receiving a majority of all the votes cast by his political party
27 for first choice of candidates for that office shall be declared nom-
28 inated or elected, as the case may be; and if the full number of
29 candidates to be nominated for that office do not receive such ma-
30 jority, then, as to the remainder necessary to make up such num-
31 ber, the procedure shall be the same as provided in rules (b), (c),
32 (d) and (e) of this section.

33 (g) In any case where there is but one candidate for an
34 office and he does not receive at least one-third of the total vote
35 cast by his political party in the territory for which he was a

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36 candidate, it shall be held that no nomination was made for that
37 office and that a vacancy exists therein, which shall be filled as
38 provided in this act.

39 (h) In case of a tie vote between two or more candidates
40 for the same office, the same shall be settled by the board of pub-
41 lic works, or by the chairman and secretary of the county commit-
42 tee as the case may be, by lot in some fair and impartial manner,
43 after notice to the candidates affected, and in their presence or that

44 of their representatives, if practicable.

Election of Delegates and Alternates to National Conventions.

Sec. 64. Delegates and alternate delegates to the national
2 conventions of the several political parties held for the purpose
3 of nominating candidates for President and vice-President of the
4 United States shall be elected as provided in section 1 of this act.

Municipalities.

Sec. 65. For the purpose of this act a municipality is an
2 incorporated city or borough of two thousand or more inhabitants.
3 No primary election in a municipality shall be held on the same
4 day as the June or August primary, nor less than forty days
5 nor more than sixty days before the regular municipal election.
6 The duties required in this act of clerks or county and circuit
7 courts shall be discharged by the city clerk or recorder. The
8 duties herein required of county courts shall be discharged by the
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9 council or by the governing administrative board of the munici-
10 pality. The duties herein required of county committees shall be
11 performed by the municipal committees of the political parties
12 participating in the primary election. Municipal committees shall
13 consist of not less than one nor more than three voters from each
14 ward. The municipal committee of the county or the state com-
15 mittee of a political party may by resolution fix the number of
16 which any municipal committee shall consist; and, if the munici-
17 pality be not divided into wards, may also prescribe whether the
18 members shall be chosen at large or from certain portions of the
19 municipality. A copy of every such resolution, attested by the
20 chairman and secretary of the committee adopting it, shall be
21 filed with the municipal clerk. The time of holding primary
22 elections in municipalities, subject to the limitations herein pre-
23 scribed, the number of petitioners required to entitle a candidate's
24 name on the ballot, the fees (if any) to be paid by the candi-
25 dates, and all other matter not covered by law, may be fixed by
26 the charter or by an ordinance or resolution of the municipality.
27 Such fees (if any required) shall in no case exceed two per-cent.
28 of the salary or income of the office, and in no case shall exceed
29 fifty dollars nor be less than five dollars; except that the fee for
30 candidate for member of a political committee shall not exceed five
31 dollars.

Sec. 66. Any incorporated city or borough of less than two thousand population may, by ordinance or resolution of its council, adopt the method of making nominations and of choosing political party committees herein provided. Any municipality or incorporated city or borough may, by amendment of its charter, or by ordinance adopted by its council and ratified by a majority of its voters voting thereon at an election, adopt some other plan or method for the nomination of candidates and the choosing of political party committeemen.

Compensation of Primary Election Officers.

Election Expenses a County and Municipal Charge.

Sec. 68. The printing of ballots and all other expenses incurred in providing for, holding and making returns of primary elections herein provided, shall be a county charge, and shall be audited by the county court and paid out of the county treasury except where the officers to be voted for are exclusively municipal officers, in which case such expenses shall be a municipal charge, the payment of which shall be provided for in the same manner as other municipal expenses.

Nominations of Candidates for Presidential Electors.

Sec. 69. Nominations of candidates for electors of president
 2 and vice president of the United States shall be made by the State
 3 committee of each political party, unless and until the State con-
 4 vention provided for in section seventy-one shall provide otherwise.
 5 It shall be the duty of the chairman and the secretary of each said

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6 committees to certify the same to the Secretary of State, stating
 7 therein the name and postoffice address of each such candidates.
 8 Such certificate shall be filed and recorded in the office of the Sec-
 9 retary of State, who shall furnish a certified copy thereof to the
 10 clerk of the county court to deliver such package to the prosecut-
 11 fore the general election. Such state committee shall fill any va-
 12 cancy among the nominees for presidential electors of its political
 13 party, and the same shall be certified as in case of original nomi-
 14 nations, and the Secretary of State shall certify nomination to fill
 15 a vacancy as in case of original nomination.

Affidavits Taken in Primaries.

Sec. 70. All affidavits taken in any primary election shall be
 2 preserved by the commissioners of election and returned to the
 3 clerk of the Circuit Court with the other returns, except such as
 4 are named in section fifty-three. All such affidavits shall be sealed
 5 up in a package, marked "Affidavits taken at Precinct No.
 6 of District in County, West Vir-
 7 ginia, at the primary election held., 19. . . ." Each
 8 election commissioner and clerk shall write his name over each
 9 place where such package is sealed. It shall be the duty of the
 10 clerk of the County Court to deliver such package to the prosecut-
 11 ing attorney of the county, and his duty to lay all such affidavits
 12 before the next grand jury of the county.

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Political Party Convention.

Sec. 71. In any year in which a primary election is held as
 2 provided by this act, any political party may hold a state convention
 3 at a place and on a date to be designated by its State committee, be-
 4 tween the twentieth day of June and the first day of August, if
 5 the primary be held in June, and between the fifteenth day of Au-
 6 gust and the first day of October, if the primary be held in August.
 7 Said convention shall consist of the members of the State commit-
 8 tee of the political party and all of its nominees for office, excepting
 9 nominees for offices to be voted for by a political division less than

10 a county; and every such member shall have one vote in such
 10a convention. No person shall be represented therein by proxy.
 11 Such convention shall have authority to adopt a platform and all
 12 reasonable rules and regulations, not inconsistent with the constitu-
 13 tion and laws of this state, for the government of the party. This
 14 section shall not be construed so as to prohibit the holding of other
 15 conventions by political parties.

Who May Adopt This Primary Method.

Sec. 72. Any association of voters, or any committee repre-
 2 senting any such association, not a political party within the mean-
 3 ing of this act, may cause the provision of this act to apply to any
 4 primary election called or held by such committee or association
 5 by so stating in the call for such election; and in such cases all the
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 6 provisions of this act shall apply to such elections so far as appli-
 7 cable thereto.

Provision as to Holidays.

Sec. 73. Whenever this act requires any committee or other
 2 body or any person to perform an act on a specified date, and that
 3 date falls on Sunday or on a national holiday or state holiday (ex-
 4 cept an election day) the day next following shall be taken to be
 5 the day specified.

Duty of Attorney General.

Sec. 74. Previous to each primary election the attorney gen-
 2 eral shall cause to be printed the law governing primary elections;
 3 prepare and have printed a sample official ballot showing its form,
 4 the kind and sizes of types and the kind and quality of paper to
 5 be used, the arrangement of names on the ballot, and the form of
 6 instructions to voters to be printed thereon, to the end that the bal-
 7 lots shall be uniform throughout the state, shall conform to the
 8 law, and be easily understood by the individual voter. He shall
 9 also prepare and have printed sample poll books, tally sheets, and
 10 all other blanks and forms to be used by the officers of primary
 11 elections. In connection with the pamphlet containing the law gov-
 12 erning primary elections he shall give such instructions for carry-
 13 ing it out as may be deemed pertinent and useful and not contrary
 14 to law. All such instructions, forms and blanks shall be subject to
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 15 approval by the governor; and when so approved the attorney-
 16 general shall furnish printed copies of them and of the law and

17 instructions to the board of ballot commissioners in each county,
18 sufficient for their own use and for each commissioner of elections
19 therein, and for such other officers as the attorney-general may
20 think ought to have the same. All election officers shall obey such
21 instructions and follow the form of such poll books, ballots and
22 other blanks as nearly as possible. It shall be the duty of the at-
23 torney-general to see that all elections held under this act are con-
24 ducted in conformity to its provisions.

Punishment for Certain Offenses.

Sec. 75. The commissioners, clerks and challengers of pri-
2 maries, or any person who shall act as such, are hereby declared to
3 be public officers while so acting; and if any such public officer, or
4 any member of a political party committee, or any other officer or
5 person, charged with the performance of any duty by any provision
6 of this act, shall fail or refuse to perform the same he shall upon
7 conviction therefor be punished as hereinafter provided. The jury
8 finding any such officer or person guilty of such offense shall state
9 in their verdict either "guilty carelessly" or "guilty corruptly." If
10 so found guilty carelessly, such person shall be fined not exceeding
11 fifty dollars; if found guilty corruptly, such person shall be fined
12 not exceeding five hundred dollars; and in addition, in the discre-
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13 tion of the court, may be imprisoned in the county jail not exceed-
14 ing one year, or be confined in the penitentiary not exceeding two
15 years.

Sec. 76. Whoever shall vote or attempt to vote at any pri-
2 mary election, knowing that he has no right to vote, or whoever
3 shall vote twice in any such election, or attempt to do so, shall be
5 fined in the penitentiary not exceeding two years; and in addition
4 punished by a fine not exceeding five hundred dollars and be con-
6 thereto shall be ineligible to hold an elective or appointive office
7 and be disqualified from voting at any general election, special or
8 primary election for a period of five years from the date of the
9 judgment of the court. Whoever shall be convicted a second time
10 of any such offense shall be so fined and shall be confined in the
11 penitentiary not exceeding ten years, and shall be so ineligible and
12 so disqualified for the rest of his natural life.

Additional Offenses and Penalties.

Sec. 77. Any officer or person who shall offend in any way
2 of the following particulars:

3 First. Any commissioner of elections, poll clerk or challenger

4 who shall knowingly or cause to make, or conspire with others to
5 make a false return of the result of the votes cast for any candi-
6 date at a primary election held pursuant to law; or,

7 Second. Any commissioner of elections receiving the ballot
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8 of voter to be deposited in the ballot box at any election who shall
9 put another ballot in the box instead of the one so received by him ;
10 or

11 Third. Any commissioner of elections or poll clerk who shall
12 count and string a ballot not taken from the ballot box, in lieu of
13 one taken or which should have been taken, from such ballot box;
13a or

Fourth. Any commissioner of a county court, whether acting as such *ex officio* as a member of a board of canvassers or otherwise, clerk of a county court, or other person, he shall abstract from any package of ballots voted, sealed and returned from any precinct either before or after they are filed with the clerk of the circuit court or county court, who shall in any manner change any such ballot from what it was when voted by the voter, or who shall put another ballot in such package in the place of the one so abstracted therefrom; or,

Fifth. Any commissioner of a county court, whether acting as such *ex officio* as a member of a board of canvassers or otherwise, who shall knowingly make and enter of record, or in any way aid, counsel or advise the same to be done, or permit the same to be done, without objection on his part, any false or fraudulent statement of the result of any primary election within his county; or

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31 Sixth. Any person who shall falsely make or fraudulently de-
32 face or fraudulently destroy any certificate of nomination or any
33 part thereof; or file any certificate of nomination, knowing the
34 same or any part thereof, to be falsely made, or suppress any
35 certificate of nomination which has been duly filed, or any part
36 thereof; or forge or falsely make the official endorsement of any
37 ballot, or print or cause to be printed any imitation ballot, or cir-
38 culate the same, or erase, deface, or change in any manner any
39 election record, or any ballot, poll book, tally sheet or certificate
40 of election, deposited with either of the clerks of the county or cir-
41 cuit courts; or conspire with another to do any of said acts, or in-

42 duce or attempt to induce any other person to do any of said acts,
43 whether or not said acts or any of them be committed; or,

44 Seventh. Any person who shall remove or attempt to remove
45 a ballot from the election room, or have in his possession outside
46 the election room any ballot, either genuine or counterfeit, except
47 specimen ballots, during the election; or,

48 Eighth: Any poll clerk who shall deceive any voter in se-
48a lecting or preparing any ballot, or prepare the same in any other
48b way than as requested by said voter; or,

48c Ninth. Any clerk, member of the board of ballot commis-
48d sioners, commissioner of election, or other messenger intrusted
48e with the custody of the ballots, who shall open any of the pack-
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49 ages in which the ballots are contained, or permit any of them to
50 be opened, or destroy any of such ballots, or permit them to be de-
51 stroyed, or give or deliver any such package or ballots to any per-
52 son not lawfully entitled to receive them, as herein provided; or
53 conspire to procure, or in any way aid, abet, or connive at any rob-
54 bery, loss or unlawful destruction of any such ballots or pack-
55 ages; or,

56 Tenth. Any person, who shall induce or attempt to induce
57 any voter to place on his ballot any sign or device of any kind, as
58 a distinguishing mark by which to indicate to any other person
59 how such voter voted, or shall enter into or attempt to form any
60 agreement or conspiracy with any other person to induce or at-
61 tempt to induce a voter to so place a distinguishing name or mark
62 on his ballot, whether or not said act be committed or attempted
63 to be committed; or,

64 Eleventh. Any commissioner of elections, any poll clerk or
65 any challenger who shall reveal to any person how any voter has
66 voted, or what other candidates were voted for on any ballot bear-
67 ing a name not printed thereon, or give any information concern-
68 ing the appearance of any ballot voted; or,

69 Twelfth. Any person who shall induce, or attempt to induce,
70 by the use of any unlawful means, any commissioner of elections,
71 poll clerk or challenger to violate any of the provisions of this act,

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72 whether or not such person shall violate or attempt to violate any
73 of the provisions thereof; or,

74 Thirteenth. Any person who shall aid, assist, counsel or ad-
75 vise the commission of any of the offenses above specified—every
76 such person so offending shall, on conviction of any such offense,

77 pay a fine not exceeding five hundred dollars and be imprisoned
78 in the county jail not exceeding one year; or, in the discretion of
79 the court, be confined in the penitentiary not exceeding three years.

Sec. 78. Whoever shall knowingly or wilfully falsely swear
2 or make a false affidavit under any of the provisions of this act,
3 shall be deemed guilty of perjury, and, on conviction thereof,
4 shall be confined in the penitentiary not exceeding three years.

Sec. 79. If any person not herein authorized to do so, shall
2 enter or attempt to enter the election room or shall remain with-
3 in sixty feet of the polling place, contrary to the provisions here-
4 of, he shall be guilty of a misdemeanor, and on conviction thereof,
5 shall be fined not exceeding one hundred dollars, and may in the
6 discretion of the court, be confined in the county jail not exceed-
7 ing sixty days.

Sec. 80. If any person shall during the election, remove or
2 destroy any of the supplies or other conveniences placed in the
3 booths or compartments, remove, tear down or deface the cards
4 printed for the instruction of the voters, or destroy or remove from
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5 any booths, railing or other conveniences provided for such election,
6 or shall induce or attempt to induce any person to commit such
7 acts, whether or not any of such acts be committed, or attempted
8 to be committed, shall be punished by a fine not exceeding two
9 hundred dollars and imprisoned in the county jail not exceeding
10 one year.

Sundry Acts Forbidden.

Sec. 81. No officer of elections shall disclose to any per-
2 son the name of any candidate for whom a voter has voted. No
3 officer of elections shall do any electioneering on primary elec-
4 tion day. No person whatever shall do any electioneering on
5 primary election day within any polling place, or within sixty
6 feet of any polling place, other than that in which he is entitled
7 to vote, nor shall any person examine a ballot which any voter
8 has prepared for voting or solicit the voter to receive the same,
9 nor ask or make arrangements, directly or indirectly, with
10 any voter to vote an open ballot. No person except a commissioner
11 of elections shall receive from any voter a ballot prepared by
12 him for voting. No voter shall receive a ballot from any per-
13 son other than one of the poll clerks; nor shall any person other
14 than a poll clerk deliver a ballot to a commissioner of elections,

15 to be voted by such commissioner. No voter shall deliver any
16 ballot to a commissioner to be voted, except the one he received

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17 from the poll clerk. No voter shall place any mark upon his bal-
18 lot, nor suffer or permit any other person to do so, by which it may
19 be afterwards identified as the ballot voted by him. Whoever
20 shall violate any provision of this section shall be punished by a
21 fine not exceeding two hundred dollars and be imprisoned in the
22 county jail not to exceed six months; or, in lieu of such imprison-
23 ment, be confined in the penitentiary not exceeding one year.

What Laws to Apply.

Sec. 82. All provisions of chapters three and five of the
2 code, so far as the same are not in conflict with or not modified
3 by the provisions of this act, are hereby made applicable to pri-
4 mary elections held under the provisions of this act. All the laws
5 of this state now in force or that may hereafter be enacted, re-
6 specting offences against elections, prohibiting corrupt practices
7 in the holding of caucuses, conventions, elections or primary
8 elections, limiting the expenditure of money in primary or elec-
9 tion campaigns, so far as such laws are applicable, are hereby made
10 a part of this act.

Witnesses Compelled to Testify Though Implicated.

Sec. 83. Every person called as a witness as to any violation
2 to any of the provisions of this act, shall be compelled to testify
3 fully concerning the same; but if such witness testify fully, he

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4 shall be exonerated from such offense in which he is implicated, and
5 shall not be prosecuted therefor.

Sec. 84. No prosecution shall be had for any violation of
2 the provision of this act, unless indictment be found, or presenta-
3 tion be made, or prosecution be begun for the offense within one
4 year after the same was committed.

Proceedings to Compel Performance of Duty.

Sec. 85. Any officer or person or board upon whom any duty
2 is developed by this act, may be compelled to perform the same
3 by writ of mandamus. The Circuit Courts, or the judges thereof in
4 vacation, shall have jurisdiction by such writ, and shall, upon affi-
5 davit filed showing a proper case, without a rule to show cause, is-
6 sue such writ, to be returned, heard and determined without unnec-

7 sary delay. Mandamus shall lie from the supreme court of ap-
 8 peals, or any one of the judges thereof in vacation, returnable be-
 9 fore said court, to compel any officer, person or board herein to
 10 do and perform legally any duty herein required of him or them.
 11 A writ of certiorari, mandamus or prohibition shall lie from the
 12 said supreme court of appeals, or a judge thereof in vacation, re-
 13 turnable before said court; to correct any error of law and review
 14 and correct the proceedings of any circuit court or the judge there-
 15 of in vacation, or any board of canvassers. When any such writ of
 16 mandamus, prohibition or certiorari shall be issued by said court

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17 or a judge thereof in vacation, it shall be the duty of said court to
 18 convene in special session at the state capitol, not later than ten
 19 days from the date of the writ, to hear and determine all matters
 20 arising upon said writ, which matter shall have precedence over
 21 all other business pending in said court and be determined within
 22 five days from the assembling thereof if practicable. Mandamus
 23 and prohibition proceedings under this section may be upon affida-
 24 vit alone, and no rule to show cause, nor alternative writ, shall be
 25 necessary.

This Act Shall Be Liberally Construed.

Sec. 86. This act shall be liberally construed, so that the
 2 real will of the voters may not be defeated by any informality or
 3 failure to comply with all the provisions of law in respect to the
 4 giving notice, or the conduct of the primary, or certifying the re-
 5 sults thereof.

Laws Repealed.

Sec. 87. All acts and parts of acts coming within the purview
 2 of this act and inconsistent therewith are hereby repealed.

Senate Bill No. 77

Introduced January 19, 1915. Referred to the Committee on
 Labor.

A BILL to amend and re-enact chapter fifteen of the code of West
 Virginia, to provide for the establishment of a state bureau of
 labor to be under the control and management of a commissioner
 to be known as the state commissioner of labor.

Be it enacted by the Legislature of West Virginia:

Appointment of Commissioner.

Sec. 1. The governor shall, with the advice and consent
2 of the senate appoint a competent person, who is identified with
3 the labor interests of the state, to be state commissioner of labor,
4 who shall hold his office for a term of four years and until his
5 successor is appointed and qualified. In case of a vacancy in the
6 office of commissioner of labor, caused by death, resignation, re-
7 moval or otherwise, the governor shall appoint a commissioner of
8 labor for the unexpired term in the manner above provided.

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Duties of Commissioner.

Sec. 2. It shall be the duty of such officer and the em-
2 ployes of the said bureau to cause to be enforced all laws regulat-
3 ing the employment of children, minors and women, all laws es-
4 tablished for the protection of the health, lives and limbs of opera-
5 tors in workshops, factories, mills, public instiutions, on railroads,
6 and other places, and all laws enacted for the protection of the
7 working classes, and declaim it a misdemeanor on the part of the
8 employers to require as a condition of employment the surrender
9 of any rights or citizenship, laws regulating and prescribing the
10 qualifications of persons in trades and handicrafts, and similar
11 laws now in force or hereafter to be enacted. It shall also be the
12 duty o officers and employes of the bureau to collect, assort, ar-
13 range and present in biennial report to the legislature, statistical
14 details relating to all departments of labor in the state; to the
15 subjects of corporations, strikes, or other labor difficulties; to
16 trade unions and other labor organizations and their effect upon
17 labor and capital; and to such other matters relating to the com-
18 mercial, industrial, social, educational, moral and sanitary con-
19 ditions of the laboring classes, and the permanent prosperity of
20 the respective industries of the state as the bureau may be able
21 to gather. In its biennial report the bureau shall also give account
22 of all proceedings of its officers and employes which have been
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23 taken in accordance with the provisions of this act, or of any other
24 acts herein referred to, including a statement of all violations of
25 law which have been observed, and the proceedings under the

26 same, and shall join with such accounts and such remarks, sug-
27 gestions and recommendations as the commissioner may deem
28 necessary.

Operator or Owner to Make Reports.

Sec. 3. It shall be the duty of every owner, operator, or
2 manager of every actory, workshop, mill, public instiution or other
3 establishment where labor is employed, to make to the bureau,
4 upon blanks furnished by said bureau, such reports and returns
5 as the said commissioner may require, for the purpose of com-
6 piling such labor statistics as are authorized by this act, and the
7 owner or business manager shall make such reports and returns
8 within the time prescribed therefor by the commissioner of labor,
9 and shall certify to the correctness of the same. In the reports
10 of said bureau no use shall be made of the names of individuals,
11 firms, or corporations supplying the information called for by this
12 section, such information being deemed confidential, and not for
13 the purpose of disclosing personal affairs, and any officer, agent,
14 or employe of said bureau violating this provision shall be fined
15 in the sum of not to exceed five hundred dollars, or being imprison-
16 ed for not more than ninety days.

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Witnesses to Be Examined.

Sec. 4. The commissioner of labor shall have the power to
2 issue subpoenas, administer oaths, and take testimony in all mat-
3 ters relating to the duties herein reuquired by such bureau, such
4 testimony to be taken in some suitable place in the vicinity to
5 which testimony is applicable. Witnesses subpoenaed and testify-
6 ing before any officer of the said bureau shall be paid the same
7 fees as witness before a superior court, such payment to be made
8 from the contingent fund of the bureau. Any person duly sub-
9 poened under provisions of this section who shall wilfully
10 neglect or refuse to attend or testify at the time and place named
11 in the subpoena, shall be guilty of a misdemeanor, and upon con-
12 viction thereof, before any court of compentent jurisdiction, shall
13 be punished by a fine of not less than twenty-five dollars, or more
14 than one hundred dollars, or by imprisonment in the county jail
15 not exceeding thirty days.

Power to Inspect.

Sec. 5. The commissioner of labor or any employe of the
2 bureau of labor shall have power to enter any factory, mill, public

3 institution, office, workshop, or public or private works at any
 4 time for the purpose of gathering facts and statistics such as are
 5 contemplated by this act, and to examine into the methods of
 6 protection from danger to employes, and the sanitary conditions
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7 in and around such buildings and places and make a record thereof,
 8 and any owner or occupant of said factory, mill, office, or workshop,
 9 or public or private works or his agent or agents, who shall refuse
 10 to allow an inspector or employe of said bureau of labor to enter
 11 for purpose of making inspections shall be deemed guilty of a
 12 misdemeanor, and upon conviction thereof, before any court of
 13 competent jurisdiction, shall be punished by a fine of not less
 14 than twenty-five dollars nor more than one hundred dollars, or
 15 be imprisoned in the county jail not to exceed ninety days for
 16 each and every offense.

Records of Office, Treated How.

Sec. 6. All reports or returns made to the said bureau
 2 in accordance with the provisions of this act, and all schedules,
 3 records or documents gathered or returned by the commissioner or
 4 inspectors shall be declared public documents, insofar as not in
 5 conflict with section three of this act. At the expiration of the
 6 period of two years all records, schedules, and papers accumulat-
 7 ing in the said bureau that may be considered of no value by
 8 the commissioner may be destroyed; *provided*, the authority
 9 of the governor be first obtained for such destruction.

Reports to be Printed and Distributed.

Sec. 7. The biennial reports of the bureau of labor, pro-
 2 vided for by section two of this act, shall be printed in the same

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3 manner and under the same regulations as the reports of the ex-
 4 cutive officers of the state. *Provided*, that not less than two
 5 thousand copies of the report shall be distributed, as the judgment
 6 of the commissioner may deem best. The blanks and other sta-
 7 tionery required by the bureau of labor in accordance with the
 8 provisions of this act shall be furnished by the secretary of state,
 9 and shall be paid for from the printing fund of the state.

Factory Inspectors.

Sec. 8. The commissioner of labor shall, by written order
 2 filed with the governor, divide the state into inspection districts,
 3 due regard being had to the number of establishments and the

4 amount of work required to be performed in each district. And
 5 he shall assign to each district an inspector who shall have charge
 6 of the inspection in the district to which he is assigned, under
 7 the supervision of the commission of labor. The commissioner of
 8 labor may at any time, when in his discretion, the good of the
 9 service requires, change an inspector from one district to another,
 10 or re-assign the districts of the state among the inspectors under
 11 his charge. He may at any time, when the conditions are changed,
 12 or in his discretion the good of the service requires, by a like
 13 order filed with the governor, re-divide the state into inspection
 14 districts, changing the territory embraced within the several dis-
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15 tricts as to him may seem advisable. The inspectors shall be
 16 paid for each full day service rendered by them, such compensa-
 17 tion as the commissioner of labor may deem proper, but no such
 18 inspector shall be paid to exceed four (\$4) dollars per day, and
 19 his actual and necessary traveling and hotel expenses. The com-
 20 missioner of labor shall appoint a chief clerk and such other as-
 21 sistants as the work of the bureau demands.

Salary of Commissioner.

Sec. 9. The salary of the commissioner of labor provided
 2 for in this act, shall be two thousand five hundred (\$2,500) dol-
 3 lars per annum, and he shall be allowed his actual and necessary
 4 traveling and incidental expenses.

Safe Contrivances to be Furnished.

Sec. 10. Any person, firm, corporation or association op-
 2 erating a factory, mill or workshop where machinery is used shall
 3 provide and maintain in use, belt shifters or other mechanical
 4 contrivances for the purpose of throwing on or off belts or pulleys
 5 while running, where the same are practicable with due regard to
 6 the nature and purpose of said belts and the dangers to employes
 7 therefrom; also reasonable safeguards for all vats, pans, trimmers,
 8 cutoffs, gang edge, and other saws, planers, cogs, gearings, belting,
 9 shafting, coupling, set screws, line rollers, conveyers, mangles in

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10 laundries and machinery of other or similar description, which
 11 it is practicable to guard, and which can be effectively guarded
 12 with due regard to the ordinary use of such machinery and ap-
 13 pliances, and the dangers to employes therefrom, and with which
 14 the employes of any such factory, mill or workshop are liable to

15 come in contact while in the performance of their duties; and if
16 any machine or any part thereof, is in a defective condition, and
17 its operation would be extra hazardous because of such defect, or
18 if any machine is not safeguarded as provided in this act, the use
19 thereof is prohibited, and a notice to that effect shall be attached
20 thereto by the employer immediately on receiving notice of such
21 defect or lack of safeguard, and such notice shall not be removed
22 until said defect has been remedied or the machine safeguarded
23 as herein provided.

Ventilation.

Sec. 11. Every factory, mill, or workshop where machinery
2 is used and manual labor is exercised by the way of trade for
3 the purpose of gain within an enclosed room (private houses in
4 which the employes live, excepted) shall be provided in each work-
5 room thereof with good and sufficient ventilation and kept in a
6 cleanly and sanitary state, and shall be so ventilated as to render
7 harmless, so far as practicable, all gases, vapors, dust or other
8 impurities, generated in the course of the manufacturing or labor-
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9 ing process carried on therein; and if in any factory, mill or work-
10 shop any process is carried on in any inclosed room thereof, by
11 which dust is generated and inhaled to an injurious extent by the
12 persons employed therein, conveyors, receptacles or exhaust fans,
13 or other mechanical means shall be provided and maintained for
14 the purpose of carrying off or receiving or collecting such dust.

Places of Danger to be Guarded.

Sec. 12. The openings of all hoistways, latchways, eleva-
2 tors and well holes and stairways in factories, mills, workshops,
3 storehouses, warerooms or stores, shall be protected where practica-
4 ble, by good and sufficient trapdoors, hatches, fences, gates or other
5 safeguards, and all due diligence shall be used to keep all such
6 means of protection closed, except when it is necessary to have
7 the same open that the same may be used.

Defective or Unguarded Equipment to be Reported by Employe.

Sec. 13. Any employe of any person, firm or corporation or
2 association shall notify his employer of any defect in, or failure
3 to guard the machinery, appliances, ways, works and plants, with
4 which or in or about which he is working, when any such defect
5 or failure to guard shall come to the knowledge of any said em-
6 ploye, and if said employer shall fail to remedy such defects then

7 said employe may complain in writing to the commissioner of
 8 labor of any such alleged defects in or failure to guard the ma-
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9 chinery, appliances, ways, works and plants, or any alleged viola-
 10 tion by such person, firm, corporation or association, of any of
 11 the provisions of this act, in the machinery and appliances and
 12 premises used by such person, firm, corporation or association,
 13 and with or about which such employe is working, and upon re-
 14 ceiving such complaint, it shall be the duty of the commissioner
 15 of labor, by himself or an inspector to forthwith make an inspec-
 16 tion of the machinery and appliances complained of.

Penalty for Non-Compliance.

Sec. 14. Any person, firm, corporation or association who
 2 violates or fails to comply with any of the provisions of this act
 3 shall be deemed guilty of a misdemeanor, and upon conviction
 4 thereof shall be punished by a fine of not less than twenty-five
 5 dollars nor more than one hundred dollars.

Sec. 15. All acts and parts of acts inconsistent with this
 2 act are hereby repealed.

Senate Bill No. 4

[BY MR. GRAY.]

Introduced January 18, 1915—Referred to the Committee on Pro-
 hibition and Temperance. Jan. 20, reported back with the recom-
 mendation that it do pass. Jan. 22, taken up in regular order for
 consideration, read a first time, and ordered to a second reading.

A BILL to amend and re-enact section sixteen of chapter one hundred
 and forty-nine of the code (serial section four thousand three
 hundred and sixty-seven of the code of one thousand nine hundred
 and six) relating to Sabbath breaking.

Be it enacted by the Legislature of West Virginia:

That section sixteen of chapter one hundred and forty-nine of the
 code (serial section four thousand three hundred and sixty-seven of the
 code of one thousand nine hundred and six), be amended and re-
 enacted so as to read as follows:

If a person, on a Sabbath day, be found laboring at any trade
 2 or calling, or employ his minor child, apprentice, or servant in

3 labor, or other business, except in household or other work of
4 necessity or charity, he shall be fined not less than five dollars
5 for each offense. And every day any such minor child or servant
6 or apprentice is so employed, shall constitute a distinct offense.
7 If any person, on the Sabbath day, play or procure, assist, aid
8 or abet others to play base ball, and the owner of the grounds
9 where the game is conducted permitting such playing, and the
10 gate-keeper thereat, shall be deemed guilty of a misdemeanor and
11 fined not less than ten dollars nor more than fifty dollars;

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12 and may, in the discretion of the court, be confined in the
13 county jail not exceeding ten days. And any person found hunt-
14 ing, shooting, or carrying fire-arms on the Sabbath day, shall
15 be guilty of a misdemeanor and fined not less than five
16 dollars.

17 All acts and parts of acts inconsistent herewith are hereby
18 repealed.

Senate Bill No. 52

(BY MR. PARRISH.)

January 18, 1915—By Mr. Parrish. Referred to the Committee on Medicine and Sanitation.

A BILL to protect the public health by preventing the pollution and preserving the purity of the waters of the state; giving to the state board of health supervision and control over the public waters, sewage, trades wastes and refuse, and the disposal thereof; providing for the construction, alteration and operation of plants or works for the collection, transportation, and for the purification of said products; the control of the discharge of the same into any rivers or streams of the state; conferring upon cities, towns, municipalities and counties the power to raise funds for said purposes; and to use, when necessary, the public highways, and the right to appropriate private property for said purposes by making compensation therefor; prescribing penalties for violations of the provisions of this act, and the orders and regulations of the state board of health made under the authority by this act conferred; appropriating money for car-

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rying this act into effect, and repealing sections serial numbers five thousand three hundred and sixty-four, five thousand three hundred and sixty-five, five thousand three hundred and sixty-six and five thousand three hundred and sixty-seven of the code of West Virginia, A. D., one thousand nine hundred and thirteen, and renumbering the remaining one hundred and two sections of chapter one hundred and fifty of said code in the order in which they appear therein from one to one hundred and two, both inclusive, and adding to said chapter sections one hundred and three to one hundred and thirty-six, both inclusive.

Be it enacted by the legislature of West Virginia:

State Board of Health to have Control of Public Water Supply.

Sec. 1. The state board of health shall have general supervision and control over all of the waters of and within the state, in so far as the sanitary and physical condition thereof may affect the public health and comfort. It shall do, or cause to be done, all acts and things necessary to prevent the pollution of all streams, lakes, ponds and rivers within the state, from which waters are taken by the inhabitants of any city, town or village within the state, for domestic use, and shall make and enforce rules and regulations preventing all persons, firms, municipalities and corporations from polluting, or rendering

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unwholesome for domestic use, any and all waters required by the inhabitants of any such city, town or village, for domestic use. It shall provide itself with maps, plans and documents showing the source of domestic water supplies of each city, town or village within the state, and may call on the municipal authorities to supply such maps and papers for that purpose as they may have available, or may reasonably procure. The state board of health shall have and maintain an office in the city of Charleston, state of West Virginia, in which such maps, plans and documents shall be filed and kept for reference and examination. It shall make frequent sanitary analyses of all waters from which waters are taken to supply any town or city and report the results of all tests to the officers and board of health of the municipality served. The state board of health shall establish and maintain a chemical and bacteriological laboratory for the examination of public water supplies, and the

28 effluent of sewage purification works, and for the examination
29 of food suspected to be the cause of disease. No charge shall
30 be made for any such examination or test.

Employment of Agents and Servants.

Sec. 2. The state board of health shall cause an inspection
2 to be made semi-annually of all rivers, lakes, ponds, reservoirs
3 and streams from the point of intake to the source, from which

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4 water is taken for domestic use by the inhabitants of any city,
5 town or village in the state, and, for the purpose, shall appoint
6 a competent resident physician of the county in which the in-
7 spection is to be made, as inspector, to make the same. The
8 inspector so appointed shall, in all cases, be accompanied by
9 the superintendent or executive officer of the water works com-
10 pany, or department, if water is supplied by a municipality, and,
11 in counties in which more than one city, town or village is sup-
12 plied by water works systems with water for domestic use, the
13 superintendent or executive officer of the principal company
14 or department of the municipality, where the municipality sup-
15 plies the water, of the chief town or city, shall accompany the
16 inspector in making any inspections required. The inspection
17 shall embrace a careful examination of every stream and trib-
18 utary from which waters for domestic purposes are derived, and
19 every probable source of pollution of the same. The inspector
20 shall make a detailed written report covering the entire work
21 performed by him, showing the actual condition of the rivers,
22 streams, lakes, ponds and reservoirs, any pollution thereof or
23 any pollution that may probably result from conditions ob-
24 served by him. The report shall be made in triplicate, and one
25 copy thereof shall be forthwith forwarded to the state board of
26 health, and one to the municipal board of health, for which the
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27 inspection is made, and one copy be delivered to the county
28 health officer. The inspector shall receive, as compensation for
24 his services, the sum of five dollars, (\$5.00), per day, for the
25 time actually employed by him, and in addition thereto, he shall
26 be paid his actual expenses incurred in performing the work.
28 join in the report made by the inspector, but shall receive no
29 salary. He shall, however, be reimbursed the actual expenses
30 incurred by him in the performance of this duty. The expense
31 of making these inspections shall be paid by the city, town or

32 village supplied by water. In counties in which more than one
33 city, town or village is supplied by a water works system the
34 cost shall be apportioned among the different cities, towns and
35 villages so supplied, in proportion to the amount of time ex-
36 pended in inspecting the sources of water supply of the differ-
37 ent cities, towns and villages.

Duties of the Board.

Sec. 3. The state board of health shall consult with and
2 advise the authorities of cities and towns and persons having,
3 or about to have, systems of water supply, drainage and sewer-
4 age installed, as to the most appropriate source of water supply and
5 the best method of assuring its purity, and as to the best method
6 of disposing of drainage or sewerage with reference to the exist-

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7 ing and future needs of other cities, towns or persons which may
8 be affected thereby. It shall also consult with and advise all
9 corporations, companies or persons engaged, or intending to
10 engage, in any manufacturing or other business enterprise, the
11 drainage or sewerage from which may tend to pollute any in-
12 land water, as to the best method of preventing such pollution,
13 and it shall conduct experiments to determine the best methods
14 of the purification or disposal of drainage or sewerage. Cities,
15 towns and all other corporations, companies or persons shall
16 submit to the state board of health for its advice and approval
17 plans of their proposed systems of water supply or of the dis-
18 posal of drainage or sewerage, and no city, town or persons or
19 company shall proceed to build or install, or enlarge or extend any
20 system of water supply, drainage or sewerage disposal, without
21 first obtaining the approval of the state board of health.

Sec. 4. The state board of health shall have supervision and
2 control over the surroundings of any source from which either sur-
3 face or underground water, for portable purposes, is collected for
4 delivery in containers; and it shall also assume jurisdiction over
5 the method of collecting, bottling and delivering such waters. After
6 the passage of this act no such waters shall be collected, bottled
7 or delivered until a written permit so to do has been issued by
8 the state board of health or local health officer to the owner of
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9 such supply. No such permit shall be issued if the state board
10 of health determines that said water is, in any way, injurious to
11 the public health. Corporations, companies and persons handling

12 potable waters, shipped from points outside of the state of West
13 Virginia, shall receive permits to sell waters only upon presenta-
14 tion to the state board of health of a permit issued by the state
15 board of health of the state from which the water is collected,
16 stating that the source of such water supply and the method of
17 handling the water, as practiced within the limits of that state,
18 are such as not to be prejudicial to the public health, and that
19 said water is allowed to be sold within the limits of the state is-
20 suing said permit. Nothing herein shall prevent the state board
21 of health from prohibiting the use of water shipped from another
22 state, if, in its judgment, the water is shown by analysis to be
23 unfit for potable purposes, or if it is made so by such handling
24 as it may receive after arriving within this state.

Sec. 5. Whenever the state board of health finds, upon in-
2 vestigation, that any water supply or sewerage system, or refuse
3 disposal works, on account of incompetent supervision or ineffi-
4 cient operation, is not producing such results, from a sanitary
5 standpoint, as might reasonably be expected, or is in any way a
6 menace to the public health or comfort, or is creating a nuisance, it
7 shall issue an order to the proper officer, board, department or
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8 person having charge of, or owning, such system or plant, to se-
9 cure such operating results as might reasonably be expected,
10 which results shall be obtained within such time as shall be satis-
11 factory to the state board of health. If the desired results be not
12 produced within the time specified, the state board of health may
13 order the proper officer, board, department or person having
14 charge of or owning such system or plant, to appoint within
15 such time as it may specify, and pay the salary of a competent
16 persons to be approved by the state board of health, who shall take
17 charge of and operate such system or plant, so as to secure the
18 results demanded by the board.

Sec. 6. Whenever the state board of health finds upon in-
2 vestigation that any water supply or sewerage system, or refuse
3 disposal works is in any way a menace to health or comfort, or
4 is creating a nuisance, and conditions cannot be sufficiently im-
5 proved, in the opinion of the board, by mere change in the meth-
6 od of operation, the state board of health shall be empowered to
7 issue an order requiring the owner of the system or plant to
8 make such alterations or extensions to the system or plant, or to
9 install such new system or plant, as the board may determine

10 necessary to correct improper conditions. The state board of
11 health shall name in its order such time for the completion of
12 the work as it may deem reasonable and proper.

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Sec. 7. When an order, mentioned in the preceding sec-
2 tion, shall have been served upon any county or municipality,
3 the said county or municipality shall proceed to raise such funds
4 as may be necessary to comply with the order of the state board
5 of health, by repairing and remodeling its water system or sew-
6 erage disposal plant, or by installing a proper water system, sew-
7 erage system or sewerage disposal plant, or by performing all of
8 said acts. The county court of any county and the council of
9 any municipality is hereby authorized to levy a special tax for
10 the purpose upon all of the taxable property within the county
11 or the municipality. Such tax, however, shall not, in any one
12 year, exceed the rate of twenty cents upon each one hundred dol-
13 lars valuation of the taxable property. When money for the pur-
14 pose cannot be otherwise secured, any county or municipality
15 shall have authority to issue its bonds and sell the same in order
16 to raise such funds; *Provided, however,* that no county or mu-
17 nicipality shall issue bonds for such purpose in an amount, in-
18 cluding existing indebtedness, bonded or otherwise, in the aggre-
19 gate, exceeding five per centum of the value of the taxable prop-
20 erty therein, to be ascertained by the last assessment for state,
21 county and municipal taxes, previous to the incurring of such
22 indebtedness. No debt shall be contracted under this section, un-
23 less and until all questions connected with the same shall have

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24 been first submitted to a vote of the people, and have received
25 three-fifths of all the votes cast for and against the same. The
26 general laws governing the issue of bonds by any county, town
27 or city, shall control the issuing of bonds under this section, ex-
28 cept that the aggregate indebtedness of any county or munici-
29 pality may, for the purpose of this act, exceed two and one-half
30 per centum of the value of the taxable property within the coun-
31 ty or municipality. No moneys raised under the provision of
32 this section shall be expended for any purpose other than herein
33 enumerated, and no part thereof shall be paid out unless and
34 until the expenditure and the purpose thereof shall have been
35 approved by the state board of health.

Purification of Sewage.

Sec. 8. The county court of any county, and the council
2 of any town or city in the state, shall have authority to provide
3 for one or more systems of disposal works for the purification of
4 the sewage of any city, town or county, or of any part thereof,
5 and to build, operate and maintain such disposal works as the
6 county court, or council, may deem necessary; to construct, op-
7 erate and maintain trunk line sewers, drains and laterals, with
8 the the appurtenances thereof, from the corporate limits of any
9 city or town to a proper location for a sewerage disposal plant,
10 and to a connection with any creek, ravine or river into which
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11 sewerage and waste, when purified, may lawfully be discharged.
12 Whenever a single sewerage disposal plant and connecting sewers
13 may properly serve more than one municipality, the different
14 municipalities shall contribute to the cost of construction and
15 operation thereof, in the proportion that the total value of the
16 taxable property in each city or town bears to the aggregate tax-
17 able property within all of the cities and towns so to be served.
18 Whenever any territory not embraced within the corporate lim-
19 its of any town or city may be served by such sewerage disposal
20 plant and connecting sewers, the county or counties within which
21 the territory so served is located shall contribute an equitable
22 proportion of the costs of installing and operating such plant
23 and system. The county court of any county in which any
24 trunk line sewer and sewerage disposal plant may be construct-
25 ed, is hereby authorized to contribute any amount, or amounts,
26 towards the construction of the same that the county court of the
27 county may deem advisable.

Sec. 9. For the purpose of securing a proper water supply
2 by impounding by dams, or otherwise, and of transporting the
3 same to the people to be served in any city or town in the state,
4 any city or town is hereby authorized to use and occupy any pub-
5 lic highway, the use of which may become necessary in the con-
6 struction and operation of its impounding reservoirs, dams, trans-
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7 porting and other lines. It shall, however, immediately repair in
8 substantially as good condition as when occupied, any public road
9 which it may use for lines or for temporary purposes, and shall re-
10 place by another convenient and suitable highway, any part of
11 the public highway which it may be found necessary to perma-

nently occupy and use for the purposes aforesaid. Any city or town within the state is authorized to construct and maintain any trunk line sewer, from the corporate limits to the point where any sewerage disposal plant may be located at, in, upon and along any public county road. It shall, however, forthwith replace in as good condition as when occupied any such public county road along or upon which a sewer may be constructed.

Use of Public Roads—Eminent Domain.

Sec. 10. Any city, town or county is hereby authorized to take and appropriate private property, for the purpose of impounding, storing, transporting and purifying water to be used for domestic purposes by the inhabitants of such city, town or county, and for the purpose of constructing and maintaining trunk line sewers and sewerage and waste disposal plants, in order to purify the sewerage and waste matter, and to prevent the pollution of the streams and adjacent waters. Any city, town or county, desiring to appropriate private property for any of the uses aforesaid, shall cause the same to be condemned and make S. B. No. 52.] 13

compensation therefor in all respects as provided in chapter forty-two of the code of West Virginia, A. D., one thousand nine hundred and thirteen.

Pollution of Water Supply.

Sec. 11. No sewerage, drainage, refuse or polluting matter of such kind and amount, either of itself or in connection with other matter as will corrupt, pollute or impair the quality of the water of any spring, pond, lake, river or stream used as a source of water or ice supply by any city, town, village or public institution, or water or ice company for domestic use, or render it injurious to health; and no human excrement, shall be discharged into any river, stream, spring, lake, pond or upon the banks or into any feeders thereof, unless such sewerage, drainage refuse or polluting matter shall be first purified, so as to render it harmless, in such manner and under such conditions and restrictions as the state board of health may ordain.

Sec. 12. No county, city and county, city, town, village, district, community, institution, person, firm or corporation, shall deposit, discharge or continue to deposit or discharge, into any stream, river, lake or tributary thereof, or into any other waters used, or intended to be used, for domestic purposes, or into or upon any place the surface or subterranean drainage from

7 which may run or percolate into any such stream, river, lake, trib-
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8 utary or other waters, or into any of the waters within the juris-
9 diction of this state, any sewage, sewage effluent or other sub-
10 stance forbidden so to be deposited or discharged, without having
11 an unrevoked permit so to do, as in this act provided; and they
12 may be enjoined from so doing by any court of competent juris-
13 diction at the suit of any person or municipal corporation whose
14 supply of water for domestic purposes is taken from such stream,
15 river or other running water at a point below the place of dis-
16 charge or deposit, or from such lake, or at the suit of the state
17 of West Virginia, or at the suit of any municipality, community,
18 county, or city and county, any of the residents of which shall
19 take water from such stream, river or other running water at a
20 point below the place of such discharge or deposit, or from such
21 lake or reservoir, or whose health shall be menaced by such dis-
22 charge, or at the suit of the state board of health.

23 Anything done, maintained or suffered, in violation of any
24 of the provisions of this act shall be deemed to be a public nui-
25 sance dangerous to health and may be summarily abated as such.

Sec. 13. Whenever any county, city and county, city, town,
2 village, district, community, institution, person, firm or corpora-
3 tion shall desire to deposit or discharge, or after this act be-
4 comes effective to continue to deposit or discharge into any
5 stream, river, lake or tributary thereof, or into any other waters
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6 used or intended to be used for domestic purposes, or into or
7 upon any place the surface or subterranean drainage from which
8 may run or percolate into any such stream, river, lake tributary
9 or other waters, any sewage, sewage effluent, or other substance
10 forbidden so to be deposited or discharged, or whenever any such
11 county, city and county, city, town, village, district, community,
12 institution, person, firm or corporation shall desire to deposit
13 or discharge or continue to deposit or discharge any sewage, sew-
14 age effluent, trade wastes or any other animal, mineral or vegeta-
15 ble matter or substance, offensive, injurious or dangerous to
16 health, in any of the waters within the jurisdiction of this state,
17 which is or shall be a menace to public health, he or it shall file
18 with the state board of health a petition for permission so to do,
19 together with a complete and detailed plan, description and his-
20 tory of the existing or proposed works or system, and purifica-

tion plant, showing the geographical location with relation to such stream, river, lake, tributary or other waters, and a physical and bacteriological analysis of the substance or substances so to be deposited or discharged. Thereupon a thorough investigation of the proposed or existing works, system and plant, and all circumstances and conditions by it deemed to be material, shall be made under the direction of the state board of health. As a part of such investigation, and after ten days notice by mail to

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the petitioner, a hearing or hearings may be had before said board or an examiner appointed by it for the purpose. At such hearing or hearings witnesses who testify shall be sworn by the person conducting the hearing, and evidence, oral and documentary, may be received, a record of which shall be made and filed with said board. All of the expenses of such investigation, including hearings, excepting the compensation of state officers participating therein, shall be borne and paid as they accrue, by the petitioner. Upon the completion of such investigation, said board

(a) If it shall determine as a fact that the substance being or to be discharged or deposited, is such that under all the circumstances and conditions it will so contaminate or pollute such stream, river, lake, tributary or other waters, as to render the water unfit for domestic use and endanger the lives or health of human beings or animals, or does, or will constitute a menace to public health, or that under all the circumstances and conditions it is not necessary so to dispose of such substance, shall dispose of such substance, shall deny the prayer of such petition; *provided, however,* That in case such petition shall be for permission to continue to discharge sewage, sewage effluent, storm water, or other matter mentioned in this section from a sewer, storm water or other system permanently constructed, established and operating, prior to the passage of this act, the S. B. No. 52.]

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board may grant to petitioner a temporary and revocable permit, authorizing the concurrence of such discharge, under such restrictions as in said permit may be specified, to enable it to appoint a commission to investigate and report on the best method of disposal of sewage or other matter mentioned in this section, and petitioner to construct and put into operation a new or altered system discharging elsewhere, or so to alter, add to, repair or modify the operation of the existing system that the

60 substance discharged or deposited shall not be such as to cause
 61 a contamination or pollution that will endanger the lives or
 62 health of human beings or animals, or constitute a nuisance or
 63 a menace to public health.

64 (b) If it shall determine, as a fact, that the substance be-
 65 ing or to be discharged or deposited is not such that, under all
 66 the circumstances and conditions, it will so contaminate or pol-
 67 lute such stream, river, lake, tributary or other waters, as to
 68 render the waters unfit for domestic use and to endanger the
 69 lives or health of human beings, or constitute a menace to pub-
 70 lic health, and that, under all the circumstances and conditions,
 71 it is necessary so to dispose of such substance, shall grant to pe-
 72 titioner a permit authorizing petitioner so to deposit or dis-
 73 charge, or to continue to deposit or discharge such substance:
 74 *Provided, however,* That such permit shall not be construed to

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75 authorize any act forbidden by any provision of the laws of this
 76 state relative to the preservation or propogation of fish or rela-
 77 tive to the deposit of debris into the streams of the state, or
 78 relative to the obstruction of navigation; and, *provided further,*
 79 that all permits issued hereunder shall be revocable by the board
 80 at any time, or subject to suspension if the board shall determine,
 81 as a fact, that the substance discharged or deposited by virtue
 82 thereof causes a contamination or pollution that endangers the
 83 lives or health of human beings, or constitutes a menace to the
 84 public health.

Throwing Refuse, Oil or Filth into Lakes, Streams, or Drains.

Sec. 14 No person shall intentionally throw or deposit up-
 2 on premises owned by him, or permit to be thrown or deposited,
 3 salt water, petroleum, crude oil, refined oil, or a compound, mix-
 4 ture, residuum of oil or filth from an oil well, oil tank, oil vat
 5 or place of deposit of crude or refined oil, into, or upon the mar-
 6 gin of, any lake, river, stream or pond within the state. Such
 7 wastes shall be discharged or deposited in fields, so that the
 8 liquid portions thereof must filter through the soil before reach-
 9 ing the streams.

Privies, Etc., on Banks of Streams.

Sec. 15. It shall be unlawful to erect, construct, excavate
 2 or maintain, or cause to be erected, constructed, excavated or
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3 maintained, any privy-vault, cess pool, sewer pipe or conduit, or

4 other pipe or conduit, for the discharge of impure waters, gas,
5 vapors, oils, acids, tar or other matter or substance offensive, in-
6 jurious or dangerous to health, whereby any part of such mat-
7 ter or substance shall empty, flow, seep, condense and drain into
8 or otherwise pollute or affect any of the waters intended for hu-
9 man use or consumption; or to erect or maintain any permanent
10 or temporary house, camp, or tent, so near to such spring,
11 stream, river, lake, or other source of water supply, as to cause
12 or suffer the drainage, seepage, or flow of impure waters, or any
13 other liquids, or the discharge or deposit therefrom, of any ani-
14 mal, mineral, or vegetable matter, to corrupt or pollute such wa-
15 ters.

Pollution by Live Stock.

Sec. 16. It shall be unlawful to cause or permit any
2 horses, cattle, sheep, swine, poultry or any kind of live stock or
3 domestic animals, to pollute the waters, or tributaries of such
4 waters, used or intended for drinking purposes by any portion of
5 the inhabitants of this state.

Bathing in Streams.

Sec. 17. No person shall bathe or wash clothing in any
2 spring, stream, river, lake, reservoir, pond or well from which
3 water is taken for domestic use by the inhabitants of the vic-

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4 inage, or the inhabitants of any city, town or county, at or
5 within any point for a distance of five miles above the intake
6 or point from which the waters are taken for domestic use.

Various Nuisances.

Sec. 18. No person shall drown or leave, or cause to be
2 drowned or left, any animal or fowl in any water in the state,
3 or deposit, or cause to be deposited, a carcass of any dead ani-
4 mal, fowl or offal from a slaughter-house, butcher's establish-
5 ment, spoiled fish, meat, cheese, lard, molasses, grain or other putrid
6 animal or vegetable substance, or the contents of any privy vault, or
7 any tins in which foods or liquids have been preserved, upon or into
8 or on the margin of any reservoir, pond, lake, creek, stream,
9 road, street, alley, lot, field, meadow, public ground, market-
10 place or common; or, being the owner or occupant, or in posses-
11 sion of any of the places mentioned, knowingly permit any of
12 such things to remain therein or thereon to the annoyance or in-
13 jury of any person, for a period of twenty-four hours after

14 knowledge thereof, or after notice from any constable, trustee,
15 police or health officer.

Contents of Vault Deposited.

Sec. 19. Nothing in the preceding section shall prohibit
2 the deposit of the contents of privy vaults and catch basins into
3 trenches or pits not less than three feet deep excavated in a lot,
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4 field or meadow, the owner thereof consenting, outside of the
5 limits of a municipal corporation and not less than one hun-
6 dred yards distant from a dwelling, well or spring of water, lake,
7 bay, pond, canal, run, creek, brook or stream of water, public
8 road or highway: *provided*, that such contents so deposited are
9 forthwith covered with at least twelve inches of dry earth; nor
10 prohibit the deposit of such contents in furrows, to be forthwith
11 covered with dry earth, by plowing or otherwise with the consent
12 of the owner or occupant of the land in which such furrows are
13 plowed.

Nuisances.

Sec. 20. Any privy, vault, cess-pool, sewer pipe or conduit
2 placed, erected, constructed, excavated or maintained on or near
3 the banks of any river or stream within ten miles above the in-
4 take of any water supply used for drinking or domestic purposes
5 in any city, town or village, which shall cause or suffer to be dis-
6 charged therefrom sewage, garbage, feculent matter, offal, refuse,
7 filth or any animal, mineral or vegetable matter or substance, of-
8 fensive, injurious or dangerous to health into such river or
9 stream; and any house-boat intended for or capable of being used
10 as a residence, house, dwelling or habitation, which shall for
11 more than one day be moored or anchored in or upon any river
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12 or stream within five miles above the intake of any water supply
13 used for domestic or drinking purposes in any city, town or vil-
14 lage are hereby declared to be public nuisances and it is hereby
15 made the duty of any and all sheriffs, constables, policemen
16 and health officers to immediately abate such nuisance.

Protection of Watersheds.

Sec. 21. No municipal or other public or private corpora-
2 tion and no company or person shall hereafter construct, build,
3 establish or operate any railroad, logging road, logging camp or
4 manufacturing plant of any kind, upon, within, or over any wa-
5 tershed of any public water supply system, unless such corpora-

tion, company or person shall protect the water supply from pollution by such sanitary precautions as shall be approved by the state board of health; and any such corporation, company or person intending to construct, build or establish or operate any railroad, logging road, logging camp or manufacturing plant of any kind upon or within the watershed of any public water supply system, shall furnish the state board of health with detailed plans and specifications of the sanitary precautions to be taken, to be first approved by the board.

Sec. 22. Nothing in this act shall be held or construed to prevent the owner or operator of any coal mine in the state from draining the waters that collect in the mine into any river or
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stream, and it shall be lawful to drain, cast or discharge such waters into any river or stream in the state on or near which the mine is situated, whenever necessary to properly drain the mine; *Provided*, the mine from which such waters are drained is kept in a sanitary condition, and the waters to be drained from any mine are not in any way, at or in said mine or on the premises controlled by the mine owner or operator, contaminated or polluted by animal excreta, or animal or vegetable substances or matter. The members of the state board of health and its agents shall have the right to enter any coal mine and mining premises in the state at all seasonable times to inspect the same, to ascertain if the provisions of this act are being complied with, and said board shall have the right to prevent any coal mine owner or operator from draining any waters which are polluted or contaminated with animal or vegetable substance or matter, or any waters from any mine which is in an unsanitary condition, into any stream or river in the state.

Water Closets, How Constructed and Located.

Sec. 23. All human excreta in towns and cities (incorporated or unincorporated) must be disposed of in sewers, cesspools or vaults. All cesspools and vaults must be made fly-proof, and all vaults must be cleaned once in each month between the

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months of May and October of each year, and at such other times as the state board of health or the local health officer shall direct. All cesspools, vaults, privies or water-closets shall be located at least one hundred feet from any well or cistern, unless the size of the premises precludes such location.

Must Not Drain into Water Supply.

Sec. 24. No privy, water-closet, pig-pen, slaughter-house, 2 chicken-house, stable or barn shall be so located that the drain- 3 age therefrom shall enter any well, cistern, stream, river, or other 4 source of water used for domestic purposes.

Lien for Sewer Connections Made by City.

Sec. 25. Any health officer or governing body of any city, 2 town or sanitary district, served with a sewerage system, hav- 3 ing served written notice upon the owner, or reputed owner of 4 real estate, upon which there is a dwelling house, and such owner 5 or reputed owner, after thirty days, having refused, neglected or 6 failed to connect such dwelling house, together with all toilets, 7 sinks and other plumbing therein, properly vented, and in a san- 8 itary manner with the adjoining street sewer, may connect the 9 same at a reasonable cost, and the person doing said work, at the 10 request of such health officer or governing body, shall have a lien 11 upon the real estate for his work done and materials furnished, 12 and such work done and materials furnished shall be held to have S. B. No. 52.] 25

13 been done and furnished at the instance of such owner, or repu- 14 ted owner, or person claiming or having an interest therein.

Sec. 26. Any member of the state board of health and of 2 any county or municipal board of health, or the agents of any 3 board, and any health officer shall have the right, at all seasona- 4 ble times, to enter any building, factory, plant, structure and 5 premises in the state to ascertain whether danger or probable 6 cause of pollution of waters exists, and whether the provisions of 7 this act, and any rules, regulations and orders of the state board 8 of health or of any county or municipal board of health, are be- 9 ing complied with.

Publications of Orders, Rules and Regulations.

Sec. 27. The publication of an order, rule or regulation 2 made by the state board of health under the provisions of this 3 act in any newspaper published in the city, town or county in 4 which such order, rule or regulation is to take effect; or, if no 5 newspaper is published in any city, town or county, the posting of 6-7 a copy of such order, rule or regulation in a public place in such 8 city, town or county shall be legal notice to all persons, and an 9 affidavit of such publication or posting by the person causing such 10 notice to be published or posted, filed and recorded, with a copy 11 of the notice in the office of the county court of the county, or

12 recorder or clerk of such city or town shall be accepted as evi-
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 13 dence of the time at which, and the place and manner in which,
 14 the notice was given.

Bi-ennial Reports.

Sec. 28. The state board of health shall bi-ennially make a
 2 report to the legislature, through the governor, of its doings for
 3 the preceding period, recommending measures for the prevention
 4 of the pollution of waters and for the removal of polluting sub-
 5 stances in order to protect the public health, and recommend any
 6 legislation or plans for systems or main sewers necessary for the
 7 preservation of the public health and for the purification and
 8 prevention of pollution of the rivers, ponds, lakes, springs and
 9 inland waters of the state. It shall also inform the attorney gen-
 10 eral of any violation of law relative to the pollution of water sup-
 11 plies and inland waters. All reports so made shall be published,
 12 and copies supplied to the public bodies and officers of the coun-
 13 ties, towns and cities.

Sec. 29. The provisions of this act are in the public inter-
 2 est, and they shall be liberally construed. The state board of
 3 health, the attorney general of the state, all county and munic-
 4 ipal boards of health, and health officers, and all prosecuting at-
 5 torneys in the state are specifically charged with the enforcement
 6 of the provisions of this act; and neglect of this duty by any such
 7 officer shall be sufficient ground for his removal from office.
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8 Judges of all criminal, intermediate and circuit courts in the
 9 state, in which grand juries are impaneled, shall at least twice in
 10 each year call the attention of a grand jury to the things herein
 11 forbidden.

Sec. 30. Any person who, or corporation which, or execu-
 2 tive officer or manager of any corporation which violates any of
 3 the provisions of this act, shall in each instance be guilty of a
 4 misdemeanor, and shall, upon conviction, be fined not more than
 5 one thousand dollars; and any individual convicted may, at the
 6 discretion of the court, be imprisoned for not more than ninety
 7 days, for each offense. Any continuing act which is herein for-
 8 bidden, shall for each day constitute a separate and distinct of-
 9 fense.

Penalties.

Sec. 31. Any person who shall violate or refuse, or neglect

2 to conform to any sanitary rule, order or regulation prescribed
3 by the state board of health for the prevention of the pollution of
4 springs, streams, rivers, lakes, reservoirs or other waters used or
5 intended to be used for domestic consumption, shall be guilty of
6 a misdemeanor and, upon conviction thereof, shall be fined not
7 more than one hundred dollars. Justices of the peace shall have
8 concurrent original jurisdiction with the circuit and criminal

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9 courts for the trial of persons violating any of the provisions of
10 this section, and of section seventeen of this act; but an appeal
11 shall lie from the judgment of a justice to the circuit court of the
12 county. Proceedings under this act before a justice of the peace
13 shall, in all respects, conform to the provisions of chapter fifty of
14 the code of West Virginia, in so far as the same is applicable to
15 criminal cases.

Penalties for Offenses under this Act.

Sec. 32. Whoever is aggrieved by any order of the state
2 board of health made under sections five and six, or any order
3 refusing, granting or revoking any permit under section thirteen
4 of this act, may by petition have such order of the state board of
5 health reviewed by the circuit court of the county in which the
6 order is intended to be effective. If the order is effective in more
7 than one county, the circuit court of any county in which it is
8 effective shall have jurisdiction. The circuit court shall review
9 the proceedings of the state board of health upon the papers,
10 documents and evidence upon which the state board of health
11 heard the matter, and the original papers shall be transmitted to
12 the clerk of the reviewing court for that purpose. An appeal
13 shall lie from the action of any circuit court reviewing any such
14 order to the supreme court of appeals of the state. The rules
15 governing appeals in civil cases from a circuit court to the
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16 supreme court of appeals, shall control any such appeal to the
17 supreme court of appeals of the state, except that any case arising
18 hereunder shall have precedence over all civil cases and shall be
19 heard and disposed of within ninety days after the appeal is
20 allowed; otherwise, the appeal shall stand dismissed. Pending
21 any review by the circuit court or the supreme court of appeals,
22 the order of the state board of health appealed from shall be
23 effective. The circuit court or the supreme court of appeals may
24 set aside or modify any order made by the state board of health

25 and make such order as to the court shall appear proper in the
26 premises.

Terms Defined.

Sec. 33. When used in this act, the terms "waters of the
2 state" shall include all springs, ponds, streams, wells and bodies of
3 surface or ground water, whether natural or artificial, within
4 the boundaries of this state or subject to its jurisdiction.
5 "Sewerage" shall include human and animal excretions, street
6 wash, and all domestic and manufacturing waste. "Waterworks,"
7 "water supply" and "water supply system" shall include the
8 sources and their surroundings from which water is supplied for
9 drinking or domestic purposes, together with all structures,
10 channels and appurtenances by means of which it is prepared for
11 use and delivered to consumers; excepting only the piping and

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12 fixtures inside the buildings served. "Sewerage system" shall
13 include the channels by which sewage is collected and disposed of,
14 together with the body of water into which it is directly dis-
15 charged, and all structures and appurtenances, made use of in
16 its collection and preparation for discharge in a satisfactory con-
17 dition into the waters of the state; excepting only the plumbing
18 system inside the individual buildings served. For the purposes
19 of this act, any sewer, no matter what its length and size may be,
20 shall be deemed a sewerage system.

Sec. 34. The sum of twenty-five thousand dollars
2 (\$25,000.00), or so much thereof as may be necessary, is hereby
3 appropriated out of the funds in the treasury not otherwise ap-
4 plied, for the purpose of carrying this act into effect, payable
5 upon the orders of the state board of health upon such vouchers
6 and information as it may prescribe.

Sec. 35. Sections twenty-c I., twenty-d I., twenty-d II.,
2 and twenty-d III, (being serial sections five thousand three hun-
3 dred and sixty-four, five thousand three hundred and sixty-five,
4 five thousand three hundred and sixty-six, and five thousand three
5 hundred and sixty-seven,) of chapter one hundred and fifty of the
6 code of West Virginia, A. D., one thousand nine hundred and
7 thirteen, are hereby repealed, and the remaining one hundred and
8 two sections of said chapter are hereby re-numbered in the order
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9 in which they appear in the said code, from one to one hundred
10 and two, both inclusive, and the sections of this act are added to

11 said chapter and numbered from one hundred and three to one
12 hundred and thirty-six, both inclusive.

12 All other acts or parts of acts inconsistent or in conflict with
13 the provisions of this act are hereby repealed.

Senate Bill No. 9

[BY MR. BLESSING.]

A BILL providing for the nomination of candidates for public office including candidates for United States Senate and selection of delegates to national political conventions and members of party executive committees, and designation of party preference for President of the United States, under conditions as similar as may be to those under which regular elections are held.

As it enacted by the Legislature of West Virginia:

Sec. 1. Hereafter the members of all state executive committees and county executive committees and delegates to national conventions of every political party shall be chosen and all candidates of political parties to be voted for by the people, (except such as are to be voted for at special elections to fill vacancies, presidential candidates and electors and candidates for offices to be filled by cities, towns or villages of less than two thousand inhabitants), and all candidates for the United States Senate shall be nominated at a direct primary election held in accordance with this act.

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For the purpose of this act, a municipality shall be taken to be an incorporated town or city of not less than two thousand inhabitants. A political party shall be taken to be an affiliation of electors representing a political party or organization which at the next preceding general election polled for its candidates for representative in congress at least ten per cent. of the entire vote cast for that office in the state.

Sec. 2. Primary elections for the purposes of this act other than for nominating municipal candidates shall be held in each election precinct in the state on the first Tuesday in June next before every general election in the year in which a President of the United States is to be elected and in all other general

6 election years on the first Tuesday in September. The time for
7 holding primaries for the purpose of nominating municipal candi-
8 dates shall be fixed by charter or ordinance of the respective
9 municipalities: *provided*, that no such municipal primaries shall
10 be held on the same day as the general primaries nor less than
11 twenty-five days immediately preceding the corresponding
12 municipal election. At all primary elections the polls shall be
13 opened at thirty minutes after six o'clock a. m., and closed at thir-
13a ty minutes after six o'clock, p. m., eastern standard time,
14 or as near thereafter as practicable. Said primary shall
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15 be conducted in but one room in each precinct, which room shall
16 be provided by the county court at the same time they select the
17 primary officers.

Sec. 3. For the purpose of this act there shall be chosen
2 for each political party as hereinafter provided, a state executive
3 committee consisting of one member from each senatorial dis-
4 trict of the state; a congressional executive committee, a judicial
5 committee and a state senatorial executive committee from each
6 of the respective congressional, judicial and state senatorial dis-
7 tricts, each committee consisting of one member from each county
8 in their respective districts; also a county executive committee
9 consisting of one member from each precinct therein; also a
10 municipal executive committee for each municipality, which shall
11 consist of one member from each precinct in said municipality.
12 Members of said state executive committee and county executive
13 committees shall reside in and be selected from their respective
14 political divisions in the same manner and at the same time as
15 candidates from these respective divisions are nominated: *pro-*
16 *vided, however*, that the names of candidates for membership on
17 county executive committees shall be written or pasted on the
18 ballot in their respective precincts instead of being placed on by
19 certificate; and *provided, further*, that the county executive

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20 committees shall be selected only in the years that the President
21 of the United States is elected. The members of congressional,
22 state senatorial, judicial and municipal executive committees
23 shall be selected by the nominee or nominees, as the case may be,
24 of their respective parties in their respective political divisions;

25 *provided*, that where there is more than one nominee in any
26 political division, the choice of members on the corresponding
27 executive committee shall be made by majority vote of said nomi-
28 nees. As soon as possible after the members of the new executive
29 committee have been duly chosen as hereinbefore provided, they
30 shall convene within their respective political divisions on the
31 call of the chairman of corresponding outgoing executive commit-
32 tee and proceed to select a chairman, a treasurer, and a secretary,
33 from among their own members, each of which officers shall for
34 their respective committees perform the duties that usually apper-
35 tain to such offices. No member of any of said executive commit-
36 tees shall be represented in any meetings of his committee by
37 agent or proxy. The various party officers and executive com-
38 mittees now in existence shall exercise the powers and possess the
39 duties herein prescribed until their successors are chosen in ac-
40 cordance with this act.

Sec. 4. The county executive committee of each political
2 party desiring to make nominations for any office to be filled
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3 at the next general election shall meet at the county seat at
4 least seventeen days before said primary election, and shall nomi-
5 nate to the county court of the county a qualified voter as one
6 of the commissioners and a qualified voter as one of the clerks
7 of said primary election for each election precinct in the county,
8 to be appointed by the county court at a meeting which shall be
9 held for that purpose within the same time. A list of all such
10 appointees shall be published within the county at least one week
11 before said primary election. Said commissioner and clerk shall
12 in each case be persons of good standing and good character and
13 not addicted to drunkenness. No person shall be appointed or
14 act as such commissioner or clerk who has anything of value, bet
15 or wagered on the result of such election, or who is a candidate
16 to be voted for at such election. Upon petition signed by twenty
17 members of any party residing in any precinct the judge of the
18 circuit court of that county may, for good cause shown, remove
19-20 any commissioner or clerk of such party in that precinct and sub-
21 stitute other suitable person or persons of the same party. If
22 any of the commissioners or clerks of election shall fail to appear
23 at the hour appointed for the opening of the polls, the voters
24 present representing the political party to which said absentee

25 belongs shall select a member of his party to serve in his stead,

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26 and if there are no members of his party present, then the voters
27 present shall make such selection. It is hereby made the duty of
28 the county court in each county to appoint all primary election
29 officers within their respective counties at least seventeen days
30 before the holding of any such primary.

Sec. 5. When the county executive committees meet to
2 appoint their commissioners and poll clerks, they shall, also, each
3 name a member of their party as primary ballot commissioner, who
4 together with the circuit clerk, shall constitute a board of ballot
5 commissioners for such primary election.

Sec. 6. The clerk of the county court shall provide and cause
2 to be delivered to one of the said commissioners in each of the
3 several election precincts of said county, at least three days
4 previous to any primary election a copy of the next preceding
5 list of registered voters (as amended under section thirteen of this
6 act) for the respective precincts; also (after the first general
7 primary) the affirmation books used at the respective precincts
8 at the next preceding general primary election; also the blank
9 affirmation book called for in section fourteen of this act, which
10 blank book shall have pages arranged for signing names alpha-
11 betically with columns for entering place of residence, street and
12 number; also proper poll books bearing on the front page of each

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13 the following heading: "Names of persons voting for candidates
14 at precinct No. in the district of in
15 the county of this day of.....
16 in the year" Said poll books shall have columns headed
17 respectively "number of voters," "name of voters," "residence of
18 voters," "party affiliation." The oath of commissioners of elec-
19 tion and poll clerks shall be written or printed on said poll book,
20 and as many copies of said books supplied for each voting pre-
21 cinct as there are political parties represented at the same. Each
22 clerk shall list the name of each voter and properly set out the
23 information as to each as indicated in the heading of the columns
24 in said poll book. The said clerk of the county court shall also
25 furnish proper booths and ballot boxes as provided at general
26 elections, and also strong and durable envelopes for returns, and

27 whatever else is necessary for holding the election and making
28 due return thereof as hereinafter provided.

Sec. 7. Every commissioner and clerk of said primary election shall before entering upon the discharge of his duties, take and subscribe the oath prescribed by general law for commissioners of election and poll clerks.

Sec. 8. There shall be a separate ballot or list of candidates for each political party which may have filed proper certificates

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and receipts hereinafter provided. All nominating certificates pertaining to national, state, congressional, judicial and state senatorial offices to be voted for in more than one county shall be filed in the office of the secretary of state not later than twenty-five days before the general primary election; nominating certificates for county offices and district offices to be voted for in one county only shall be filed with the circuit clerk not later than twenty days before said primary.

There shall not be in any certificate the name of more than one candidate for nomination. Such nomination papers shall state the name and residence of the candidate, the office for which he is a candidate for nomination, the party he proposes to represent, that if nominated for said office he will not withdraw, and if elected will qualify as such officer. Said certificate shall be signed and properly acknowledged by the candidate.

Sec. 9. Nothing in this act shall be construed to abridge the right of any organization or affiliation of electors not a political party as defined by section one of this act from making nominations as they might have done before the passage of this act.

Sec. 10. Not more than twenty days and not less than seven-teen days before the day fixed by law for the general primary the secretary of state shall arrange all the names of and information

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concerning all the candidates for nomination, contained in the valid certificates for nomination which have been filed with him in accordance with the provisions of this law, and he shall forthwith certify the same under the seal of the state, and file the same in his office, and make and transmit a duplicate thereof by registered letter to the circuit clerk of each county in the state, and he shall also post a duplicate thereof in a conspicuous place

11 in his office, and keep the same posted until after said primary
12 election has taken place. In case of emergency the secretary of
13 state may transmit such duplicate by telegraph.

Sec. 11. At least fourteen days before the holding of a
2 primary election, the primary ballot commissioners in each county
3 shall prepare from the certificates mentioned in the foregoing
4 section the certificates filed with the circuit clerk and the re-
5 cepts mentioned in section twenty of this act a sample official
6 primary election ballot for each party, placing thereon the name
7 of all candidates of such party to be voted for at said primary
8 election together with the statement, if any, of any candidate as
9 heretofore provided in section eight of this act, and publish
10 the same in a newspaper of general circulation published in said
11 county representing such party, if one there by; if not, then in
12 some other newspaper published in said county in at least two

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13 issues of such paper. Said ballot commissioners shall cause the
14 official ballots to be used at said election to be printed and dis-
15 tributed as required in the case of ballots at any general elec-
16 tion, except that the number thereof shall be for each party twice
17 the number of votes cast by such party in their county at the last
18 presidential election. *Provided*, that said ballot commissioners
19 shall not place on the primary ballot the name of any candidate
20 for the state senate who resides in the same county as that in
21 which the holdover senator from the senatorial district resides.

Sec. 12. Said official primary ballot shall contain at the
2 left of each column of names of candidates one perpendicular
3 column and the other matter on the ballot by ruled lines and so
4 printed as to leave a square at the left of each name on the
5 ballot.

6 On said primary ballot the names of candidates for President
7 of the United States, for United States senator, for representative
8 in Congress and delegates to the national convention of the party
9 shall be placed in the first column of candidates; names of candi-
10 dates for other ultra-county offices and the state committee in the
11 second column; and names of candidates for offices and commit-
12 tees within the county shall be placed in the third and fourth
13 columns.

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14 The names of all aspirants for the same party nomination
15 shall be grouped together. Names of candidates shall be arranged
16 alphabetically according to the surname under the appropriate
17 titles of the respective offices, with one vacant line under each
18 office.

19 The face of every primary election ballot shall conform as
20 nearly as practicable to the form given below; in all other respects
21 the general form of the ballot used, both front and back, shall
22 be that of the ballot used as general elections:—

23 OFFICIAL BALLOT

24 of

25 The Party.

26 Primary Election19...

27 To vote for a candidate make an X in the square opposite
28 and to the left of his name.

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NATIONAL	STATE	COUNTY
For President (Vote for One)	For Governor (Vote for One)	For For Sheriff (Vote for One)
A. B.	M. N.	S. T.
C. D.	O. P.	W. V.
E. F.	O. R.	W. X.
For U. S. Senator (Vote for One)	For Auditor (Vote for One)	For Prosecuting Atty. (Vote for One)
A. L.	M. S.	X. Y.
B. D.	M. I.	T. Y.
For Congress (Vote for One)	For State Senator (Vote for One)	For House of Delegates (Vote for Three)
N. L.	R. G.	F. M.
H. M.	S. K.	J. Y.

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Sec. 13. Any person who is otherwise a qualified voter in
 2 the precinct in which he resides and whose name does not appear
 3 on the next preceding registration list of the county of his resi-

4 dence may, not later than ten days nor earlier than thirty days
 5 prior to any primary election, apply to the clerk of the county
 6 court of said county to be registered. Upon written affidavit of
 7 two persons who are properly registered residents of said precinct
 8 giving the facts, (including street and number if in town or
 9 city) in regard to the applicant necessary to be set out in the
 10 registration book to entitle him to vote at a regular election,
 11 his name shall be placed by said clerk upon the proper registra-
 12 tion list—otherwise it shall not be so placed.

Sec. 14. On entering the election room, the voter shall
 2 sign his name and place of residence in a book of the party whose
 3 ballot he wishes to cast, which book shall be paged alphabetically
 4 and have at the top of each page thereof in form and effect the
 5 following affirmation with the blank spaces properly filed in as
 6 to party and precinct as indicated: "The undersigned members
 7 of the party in the precinct district
 8 county, West Virginia, do each for himself sever-
 9 ally affirm that I am a duly qualified resident in the above named
 10 precinct, and reside at the place designated opposite my name

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11 signed hereunder; that the one ballot which I am about to cast
 12 will be the only primary election ballot cast this day by me; that
 13 I have neither received nor do I expect to receive anything of
 14 value for myself or another given or promised with the manifest
 15 intent to influence my vote or the vote of another or others at
 16 this time. Having so signed, the voter shall, if his name ap-
 17 pears on the proper registration list for that precinct and does
 18 not appear on the affirmation book of another party at the last
 19 preceding general primary, be allowed to cast the ballot of the
 20 party named in said affirmation; otherwise he shall not be allowed
 21 to vote. Every voter whose name is so signed under said affirma-
 22 tion shall be conclusively presumed to have taken the same in
 23 due form. Said book of affirmation together with all the written
 24 affidavits made at said primary shall be disposed of as provided in
 25 section eighty-three of chapter three of the code and thereafter
 26 be returned to and kept in the county clerk's office, and those
 27 falsely making the same shall be subject to the same penalties
 28 as provided in section fifty-one of the same chapter in addition
 29 to all other penalties prescribed by law. Section fifty of chapter

30 three of the code is specifically made to apply to primary elections,
31 The clerks shall write their names at the place designated on the
32 back of the official ballot called for and deliver it to the voters,

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33 who shall have but one ballot, unless he shall return the same
34 spoiled; if he shall return the same spoiled, the clerks shall im-
35 mediately destroy the ballot so spoiled and deliver to him another
36 ballot in the same manner as they delivered the first one. The
37 voter shall then forthwith, and without leaving the space, retire
38 alone to the booth or compartment prepared for the purpose and
39 there prepare his ballot. In no case shall a clerk of election,
40 commissioner or any other person enter the booth with or make
41 out a ballot for a voter; *provided, however*, that if any voter shall
42 make affidavit that he is physically incapacitated or is illiterate,
43 he shall affix his mark to his name and place of residence written
44 in the said affirmation book by one of the clerks, at least two
45 of which clerks may then assist him to prepare his ballot. When
46 any assistance is given, each clerk shall insert in the proper place
47 in their respective poll books where said voter's name is written
48 the word "assisted." After preparing the ballot the voter shall
49 fold the same so that the face thereof shall not be exposed, but
50 so folded as to show plainly the name of the political party and
51 the name of the poll clerks signed thereon. The voter shall
52 then announce his name and present his ballot to the commis-
53 sioner of his party who shall hand the same to another
54 election officer who shall deposit it in the ballot box of the party

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55 indicated on the back of the ballot; *provided*, that said ballot
56 is an official one properly signed. All the poll clerks shall enter
57 the name of the voter on their respective poll books and number
58 the same in the order in which the ballot was cast. When the
59 voter has voted he shall retire immediately from the election
60 room and beyond the sixty-foot limit thereof and shall not return,
61 except by permission of the commissioners.

Sec. 15. When the polls are closed, the commissioners of
2 election and poll clerks shall proceed to ascertain the result of
3 the election, as follows:

4 First: All ballots remaining not voted shall be immediately
5 destroyed by burning or otherwise.

6 Second: The commissioner and clerk of each party shall as-
7 certain from the party affirmation books and set down therein the
8 total number of ballots of their party cast.

9 Third: The ballot box shall then be opened and one of the
10 commissioners taking therefrom one ballot at a time (which bal-
11 lot shall be examined by all the commissioners), the result of
12 the vote on such ballot for each office shall be declared by the
13 commissioner of the party to which such ballot belongs, who shall
14 then string it on a separate thread for each party. Each poll
15 clerk shall keep an accurate tally of the contents of each ballot
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16 of each party, on tally papers which shall be provided for the
17 purpose, so as to show the number of votes received by every per-
18 son for any office. The ballots shall be counted as they are strung
19 upon the thread and whenever the number counted for any party
20 shall equal the number of votes entered upon the affirmation book
21 of that party, any other ballot of such party found in the ballot
22 box shall be immediately destroyed by fire or otherwise, without
23 unfolding the same or allowing any one to examine or know the
24 contents thereof.

25 Fourth: As soon as the results at such precinct are ascertained
26 the commissioners and clerks shall make out and sign two certifi-
27 cates for each party represented of the vote for candidates of such
28 party in the following form:

29 *Certificate of Result forParty Candidates.*

30 We, the undersigned, commissioners and poll clerks of the
31 primary election held at precinct No. of dis-
32 trict of county, West Virginia, on the day of
33 1916, do hereby certify that, having been first duly sworn, we
34 have carefully and impartially ascertained the result of said elec-
35 tion at said precinct for the candidates on the official ballot of the
36 party, and the same is as follows:

37 For the office of governor, A. B. received.....votes.

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38 For the office of governor, C. D. received.....votes.

39 For the office of governor, E. F. received.....votes.

40 (And so on as to each office for which any candidate was
41 voted for, stating in words and figures the number of votes cast
42 for each candidate.)

Given under our hands this day of

.....

.....

46 They shall also make a copy of the certificate as to each
47 party for each commissioner and clerk to be retained by them.
48 The two certificates for each party shall then be sealed each in a
49 separate envelope, furnished for the purpose, and all ballots voted
50 for candidates of each party shall be sealed up in envelopes, and
51 the commissioners and clerks shall each sign their names across
52 the seal.

53 *Provided*, that when the commissioner and clerk of one party
54 do not agree, the point shall be decided by the commissioner of the
55 other party that came the nearest to them in the number of bal-
56 lots cast at that precinct.

Sec. 16. The commissioner of each party shall take charge
2 of the certificates of the result of the election and also of the poll
3 books and the envelope containing the ballots of the party he
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4 represents. Said commissioner shall then deliver one of said
5 certificates, poll book, and the envelope containing the said bal-
6 lots to the clerk of the county court and shall deliver the other
7 certificate to the clerk of the circuit court of the said county
8 at the court house thereof, who shall file and preserve the same
9 in his office for the period of one year. The ballots and cer-
10 tificates delivered to the county clerk shall be delivered by him
11 with seals unbroken, to the board of canvassers. The registration
12 books and ballot box shall be returned by one of the commissioners,
13 to the said clerk within three days after such primary.

Sec. 17: When any such election is held in the county or
2 any district or municipality thereof, the county court, which is
3 hereby constituted the board of canvassers of the county, shall
4 carefully and impartially ascertain the result of such election in
5 the county and in the district and election precincts thereof, and
6 cause to be prepared and recorded in the election precinct record
7 book a table or tables which shall show as to each candidate of
8 each political party for each office the number of votes cast for
9 him at each precinct, the total number thereof in each district and
10 the total number thereof in the entire county.

11 The board shall then make up and enter in said record book
12 a certificate for each political party, showing as to each candi-

13 date for each political party for each office the total number of
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14 votes (in words and also in figures) cast for him in the entire
15 county, which certificate shall be in the following form:

16 "The board of canvassers of the county ofstate of
17 West Virginia, having carefully and impartially examined the
18 returns of the primary election held in said county on the
19 day of 19..... do hereby certify that in said
20 county at said election, on the official ballot of the party
21 for the office A. B. received votes; C. D. received
22votes. (And so on for each particular office for each po-
23 litical party according to the truth)."

24 When the certicfiates are all entered, the record shall be
25 signed by the members of the board or a majority thereof. Said
26 members shall also sign separate certificates of the result of said
27 election within the county for each of the offices to be filled for
28 each political party, as provided by the next section.

Sec. 18. The separate certificates of the board of can-
2 vassers made pursuant to the preceding section, shall be by them
3 disposed of as follows: One of the certificates showing the vote
4 for candidates for each office voted for shall be transmitted to the
5 secretary of state and by him preserved in his office, and a copy
6 thereof to the chairman of the county executive committees of the
7 parties represented, or to the chairmen of the executive commit-
8 tees of the political division, if more than one county, in which
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9 such person was a candidate for nomination. And it shall be
10 the duty of such chairman, together with the secretary of his com-
11 mittee, within ten days after receiving such certificate to certify
12 to the clerk of the circuit courts for each county in their political
13 division, the person or persons receiving the highest number of
14 votes for the respective offices as the nominee of their party. In
15 case of a tie for the nomination for any office, the respective com-
16 mittee shall choose by lot which of the two tying shall be the
17 nominee.

Sec. 19. If any vacancy occurs in the nominees of any party
2 after the holding of any primary election, the same shall be filled
3 by the executive committee of that party in the municipality,
4 county, district or state, as the case may be.

Sec. 20. Each candidate to be voted for at a general primary

2 election (except candidates for membership on committees and
 3 delegations to national conventions) shall pay into the county
 4 treasury of each county in which they are to be voted for the fol-
 5 lowing sums respectively: candidates for nomination for United
 6 States senator and governor, ten dollars; candidates for nomina-
 7 tion for member of congress, sheriff, county clerk, circuit clerk
 8 and prosecuting attorney, twenty-five dollars; candidates for nomi-
 9 nation for magisterial offices, the sum of two dollars; candidates
 10 for all other offices, the sum of five dollars. Which sums shall be

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11 applied in the respective counties where paid toward defraying
 12 the expenses (first) of conducting said primary election and (sec-
 13 ond) toward defraying the expenses of conducting the next gen-
 14 eral election. Said candidates shall in each case take two receipts
 15 from the sheriff for the fee so paid and deposit one of them with
 16 the primary ballot commissioners of the corresponding party.

17 In the case of municipalities, said fees shall be paid to the
 18 municipal treasurer or corresponding officer and the receipt issued
 19 by him.

Sec. 21. The action of the board of canvassers or any po-
 2 litical committee at any primary election may be appealed from
 3 by any candidate thereat to the circuit court of the county. All
 4 such contests shall be governed by the provisions of the code of
 5 West Virginia so far as the same is applicable, as found in chapter
 6 six thereof.

Sec. 22. The expense of said general primary election and
 2 the per diem of the election officers shall be paid by the
 3 county court the same as other election expenses are now provided
 4 for and paid by general law: *provided*, that no compensation
 5 to any member of any executive committee shall be included in
 6 said expense.

Sec. 23. Any primary election officer, member of any po-
 2 litical committee or other person who shall wilfully fail and
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3 neglect to perform any duty by this act required of him, or who
 4 shall tamper with, change or destroy any ballot, return, or cer-
 5 tificate of election or wilfully do any other act, the object of
 6 which is to destroy any ballot or the record of any canvass of votes
 7 or in any way wilfully interfere with the utmost honesty and

8 fairness in conducting any such primary election or in making
 9 nominations thereat, and any voter who shall cast more than one
 10 primary election ballot on the same day, or who shall vote under
 11 a name other than by which he is generally known shall be guilty
 12 of a felony, and upon conviction thereof, shall be confined in the
 13 penitentiary not less than one year nor more than three years.

Sec. 24. All provisions of chapter three and five of the code
 2 of West Virginia, so far as the same are not in conflict with and
 3 are not modified by this act, shall, so far as they are germane,
 4 apply to and are hereby made applicable to primary elections.

Sec. 25. It shall be unlawful for any candidate for nomi-
 2 nation at any primary election to expend in the aggregate on
 3 account of said candidacy for announcement, advertising and all
 4 other otherwise legitimate expenses, money or anything else ex-
 5 ceeding in value the respective amounts hereinafter set forth; that
 6 is to say, for United States senator the sum of one hundred dol-
 7 lars for each county in the state; for any state office, membership
 8 in the legislature or circuit judgeship, fifty dollars for each county

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9 in which said candidate is to be voted for; for member of congress,
 10 two hundred dollars for each county in his district; for any county
 11 office, a sum not to exceed two hundred dollars in his county;
 12 for any other office not to exceed ten dollars in the political division
 13 in which he is to be voted for.

14 It shall be the duty of each and every candidate otherwise
 15 regularly nominated for a political office at a primary election to
 16 fill out, make, subscribe and file with the circuit clerk of each
 17 county in which he is to be voted for at the succeeding regular
 18 election an affidavit in form and effect as follows:

19-20 State of West Virginia,

21 County of ss:

22 being first duly sworn deposes and says that
 23 at the primary election he was a candidate for the
 24 nomination of on the ticket, that he has been
 25 duly declared the nominee of said party for said office subject
 26 to the making of this affidavit as required by law, and that the
 27 expenses incurred by him on account of said candidacy did not
 28 exceed the sum of dollars.

29

30

.....
 (Signature of affiant.)

31 Taken, subscribed and sworn to before me this
 32 day of 19....
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33 No candidate shall be considered a nominee nor his name
 34 be placed on the regular election ballot by the ballot commission-
 35 ers until said candidate has filed such affidavit properly filled
 36 out as to the amount of expenses as provided by this section,
 37 with the circuit clerk as aforesaid; *provided*, that if any candi-
 38 date so nominated does not file said affidavit within fifteen days
 39 after his nomination as aforesaid, the candidate receiving the
 40 next highest vote for such office shall be the nominee for such
 41 office upon filing said affidavit.

Sec. 26. Municipal executive committees shall exercise simi-
 2 lar functions and be governed by the same laws in regard to
 3 municipal primary elections as county executive committees in
 4 regard to general primary elections, so far as the same may be
 5 applicable.

6 The provisions of this act referring more specifically to gen-
 7 eral primary elections shall, so far as the same can be applied
 8 and not otherwise provided, govern the conduct of municipal
 9 primary elections.

Sec. 27. On the first Tuesday in August in each year in
 2 which a president of the United States is to be elected, each po-
 3 litical party shall, at a place to be designated by its state executive
 4 committee, hold a convention for the purpose of formulating a
 5 state platform and selecting presidential electors. Said conven-
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6 tion of each party shall be composed respectively of all the per-
 7 sons chosen by their respective party at the primary election next
 8 preceding, except that alternate delegates to national conven-
 9 tions and such nominees as were nominated for a political division
 10 less than an entire county shall not be members of said convention.

11 Each county shall be entitled in said convention to one vote
 12 for every hundred and fifty votes cast for the head of the re-
 13 spective ticket at the next preceding presidential election. Each
 14 county nominee and member of the corresponding county execu-
 15 tive committee shall be entitled to one vote in the respective county
 16 delegation. Each of the other members of the convention not
 17 included in a county delegation shall be entitled to three votes.

18 Votes shall be cast only by those present and entitled thereto,
19 and not by proxy.

Sec. 28. It is hereby made the duty of the attorney gen-
2 eral of the state to report to the prosecuting attorney of any county
3 such complaints of the violation of any of the provisions of this
4 act as may have been brought to his attention, and which he shall
5 have good reason to believe are well founded. If said prose-
6 cuing attorney shall refuse or neglect to take such steps as
7 shall be necessary to apprehend and try the accused, then the
8 attorney general shall prosecute in his stead. In case said pro-
9 ceedings are successful, and then only, shall the attorney general
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10 be paid a reasonable fee for his services by the county court of
11 the county, which amount so paid shall be deducted from the
12 salary of the said prosecuting attorney.

Sec 29. No person holding or accepting any elective or
2 appointive office of honor or profit under the authority of this
3 state or of the United States, shall be eligible to be elected, or
4 to be appointed, or to hold or to continue to hold the office of
5 committeeman on any political committee whatsoever. The ac-
6 ceptance of election or appointment to the office of committeeman
7 on any political committee, or the continuance in such office of
8 committeeman, shall work a forfeiture of the office or appoint-
9 ment of honor or profit so held or accepted under the authority
10 of this state and subject the person holding or accepting any
11 elective or appointive office under the authority of the United
12 States to a fine of not less than \$100.

Sec. 30. Of the candidates for each office respectively (in-
2 cluding that of party committeemen), the one receiving the great-
3 est number of votes cast for candidates for that office by his
4 political party in the territory for which he was a candidate,
5 shall be declared the nominee of his party for the office for which
6 he was a candidate. *Provided*, that where there are more than one
7 candidate to be chosen for the same office (as in counties en-

8 titled to elect more than one delegate to the legislature) every

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9 candidate receiving the greatest number of votes cast by his
10 political party for candidates for that office shall be declared the
11 nominee for such office.

Sec. 31. In the presidential election years in addition to the candidates hereinbefore required to be nominated at the general primary election, the qualified voters of each political party shall have the opportunity of voting their preference for their choice among those aspiring to be the candidates of their respective parties for president of the United States. The names of such aspirants shall be printed on the official primary election ballot of their respective parties, and the ballot shall be marked and the votes shall be counted, canvassed and returned under the same conditions, as to names, certificates and other matters as the names and certificates of party aspirants for the party nomination for the office of governor.

In each party, the aspirant for the nomination of the party for president of the United States who shall receive the greatest number of votes throughout the state shall name all the delegates to the national convention of that party.

Every delegate to a national convention so chosen shall subscribe an oath of office that he will uphold the constitution and laws of the United States and of the state of West Virginia, and that he will as such delegate, to the best of his judgment and S. B. No. 9.] 29

ability, faithfully carry out the wishes of his political party as expressed by the voters at said primary election.

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Sec.

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3. Party executive committees.
4. Primary commissioners and clerks.
5. Primary ballot commissioners.
6. Registration lists and other supplies furnished by clerk of county court.
7. Qualification of commissioners and clerks.
8. Separate ballot for each party. Nomination certificates.
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10. Certificate from secretary of state to circuit clerks as to ultra-county candidates to be placed on the ballot.

11. Making up the primary ballot and publishing copy of the same.
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13. Registration of those whose names do not appear on current list.
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20. Fees to be paid by candidates.
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26. Municipal primaries.
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30. Secondary choice.
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Senate Bill No. 265

[BY MR. MILLER.]

Introduced February 18, 1915—Referred to the Committee on Immigration and Agriculture.

A BILL providing for the prevention, control and eradication of infectious, contagious or otherwise communicable diseases among

domestic animals and poultry, and providing for quarantine and such rules and regulations as may be necessary for its enforcement.

Be it enacted by the Legislature of West Virginia:

Sec. 1. (a) The words "domestic animal" as used in this act, shall mean any equine animal or bovine animal, sheep, goat, pig, dog, cat, or poultry; and shall be taken to include the singular or plural as may be necessary in any given case.

(b) The word "owner," as used in this act, shall mean any person owning any domestic animal, or leasing any domestic animal from another; or any person who allows a domestic animal habitually to remain about the premises inhabited by such person.

(c) The word "person," as used in this act, shall mean any person, co-partnership, association, or corporation, and shall be

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taken to include the singular or plural as may be necessary in any given case.

(d) The word "premises," as used in this act, is to be taken in its widest sense; and is to include land, any structure erected on land, and any vehicle or vessel used in transporting passengers, goods, or animals by land or by water.

Sec. 2. It shall be the duty of the commissioner of agriculture hereinafter known as the commissioner, to prevent, suppress, control, and eradicate so far as is possible, any transmissible diseases of such animals or poultry, to issue circulars or bulletins for public distribution, giving information on the prevalence and control of diseases and their treatment, and such other information as would be of value to the stock industry of the state; and to enforce the laws of the state relating to diseases of animals and poultry, and the manufacture, preparation, storage, sale and offering for sale, of the food and food products derived from diseased animals and poultry. Whenever and wherever deemed necessary to prevent the spread of diseases the commissioner may regulate and prohibit the importation into this state of animals or poultry; may cause general or special quarantine of premises and animals and poultry to be established and maintained; may cause the disinfection of any premises; may cause the destruction of animals and poultry and personal property, and may regulate and prohibit the moving or

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transportation of animals and poultry from one place to another in this state. The commissioner may also cause such investiga-

20 tions to be conducted as may seem advisable regarding the causes,
21 and the methods of preventing, controlling and eradicating diseases
22 thereof.

Sec. 3. The commissioner may employ such competent and
2 experienced veterinarians as may be necessary from time to time to
3 assist him in discharging the duties imposed upon him by this act;
4 such veterinarians shall be graduates of veterinary colleges recog-
5 nized by the American Veterinarian Medical Association, and to be
6 hereafter known as consulting veterinarians. The commissioner
7 shall have general charge of the enforcement of the provisions of
8 this act, and shall collect and disseminate information and statis-
9 tics in relation to the diseases of domestic animals, the proper care
10 and sanitation of stables and other buildings used for stabling of
11 farm animals for the purpose of preventing the existence and
12 spread of infectious and contagious diseases. For any services
13 rendered under the provisions of this act, the consulting veteri-
14 narians shall receive a per diem of five dollars per day and actual
15 expenses while engaged in carrying out the directions of the com-
16 missioner, which expenses shall be paid out of the current appro-
17 priation made for the enforcement of this act.

Sec. 4. Whenever any incorporated city of this state shall

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2 have in its employ any veterinary sanitary officer engaged in the
3 inspection of meat, milk, or animals, and the qualifications of
4 such officer are equal to those in this act provided for consulting
5 veterinarians, then the commissioner may appoint such city veter-
6 inary sanitary officer a consulting veterinarian, but such officer
7 shall not be entitled to claim compensation or expenses from both
8 the state and the city for the same services, and his appointment
9 at any time shall be revocable by the commissioner.

10 The commissioner shall have the authority to appoint, at
11 different points in this state veterinarians whose qualifications are
12 equal to the requirements for consulting veterinarians to examine
13 any of the animals enumerated in this act that are to be moved to
14 states where the sanitary laws require such examination, and pro-
15 vided the owners request such inspection. It shall also be the
16 duty of said commissioner to specify and regulate the fees charged
17 for such examination, and to remove such veterinarian whenever
18 he may see fit; *provided*, that no inspector herein provided for
19 shall make any charge against the state for such service as he may
20 render.

Sec. 5. In the enforcement of this act and the rules and regulations adopted by the commissioner, he and his employees and the consulting veterinarians may enter any premises, public or private, where they have reason to believe that diseased animals or
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5 poultry may be or may have been confined or kept in or on such
6 premises.

7 Said commissioner, the consulting veterinarians, and their
8 duly appointed and authorized assistants or employees, in the
9 performance of their duties under this act, shall have power to
10 call on sheriffs and their deputies, constables and police officers,
11 mayors of cities, city and town sergeants and policemen to assist
12 them in carrying out its provisions; and it hereby made the duty
13 of all such officers to assist in carrying out the provisions of this
14 act when ordered so to do; and said commissioner, and the con-
15 sulting veterinarians shall have, while engaged in carrying out the
16 provisions of this act, the same powers and protection that other
17 peace officers have, and any such officer who fails or refuses to
18 enforce the lawful orders and quarantine of said commissioner or
19 any veterinarian acting under him, in the proper execution of the
20 powers conferred by this act, shall be guilty of a misdemeanor and
21 be punished upon conviction thereof by a fine of not less than
22 twenty-five dollars nor more than two hundred dollars,

Sec. 6. It shall be the duty of every practitioner of veteri-
2 ary medicine in West Virginia, immediately upon receiving in-
3 formation thereof, to report to the commissioner each case of any
4 of the following diseases, namely: Glanders, anthrax, blackleg or
5 black quarter: contagious pleuro-pneumonia, or lung plague of

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6 cattle; rinderpest or cattle plague; hemorrhagic septicemia; foot
7 and mouth disease, or apthous fever of cattle; southern cattle fever,
8 or Texas fever, Johns disease; contagious abortion; sheep scab,
9 mange of cattle or horses; hog cholera, or swine plague; fowl
10 cholera, avian tuberculosis; rabies, or hydrophobia; maladie du
11 coit, or dourine, of horses; advanced or generalized tuberculosis or
12 tuberculosis of the udder; or any other disease now or hereafter
13 proclaimed by the commissioner to be of a transmissible character,
14 or any domestic animal reacting to tuberculin or mallein test.
15 This report shall be in writing, and shall include a description of
16 each animal affected, with the name and exact address of the
17 owner or person in charge of the animal, and the exact locality of

18 the animal, and the number of susceptible domestic animals that
19 have been exposed to the disease. It is hereby made the duty of
20 every person who has upon his premises or in his possession any
21 domestic animal which is, or which he has good reasons to suspect
22 may be, affected with any infectious, contagious or communicable
23 disease, immediately to report the same to the commissioner. If
24 any person or veterinarian knowingly fail to report such a case,
25 or wilfully or maliciously interferes with or obstructs the com-
26 missioner or consulting veterinarians in the performance of their
27 official duties under this act, or attempts to conceal the existence
28 of such disease, shall be guilty of a misdemeanor.

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Sec. 7. It shall be unlawful for any person, or their agents or
2 employees to knowingly drive, cause to be driven, bring or cause to
3 be brought in any manner whatsoever, into this state, any domestic
4 animal affected with any contagious, infectious or communicable
5 disease. All domestic animals being brought into the state for
6 any purpose, by any means of transportation shall be subject to the
7 following restrictions; unless such animal is accompanied by a
8 certificate of good health issued by the state veterinarian or other
9 accredited authority of the state from which such animal origin-
10 ates, or the certificate of a veterinary inspector of the bureau of
11 animal industry of the United States department of agriculture,
12 setting forth that such animal is free from all contagious, infec-
13 tious, or communicable diseases and does not originate from a
14 district of quarantine or infection, such certificate showing inspec-
15 tion to have been made within a period of thirty days prior to the
16 arrival of such animal, certificate to be made in triplicate, the
17 original to be retained by the owner or person in charge of such
18 animal, and by him attached to the bill of lading accompanying
19 shipment of the animals, duplicate to be forwarded to the com-
20 missioner and triplicate to be retained by the veterinarian making
21 the inspection. It shall be the duty of the owner or owners of
22 such animal which is to enter the state without a certificate of
23 health to notify the commissioner, and such notice shall state when

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24 and where and how the animal is to be brought into this state, and
25 must reach the commissioner before the animal arrives at the point
26 of destination. Any animal entering the state without such a
27 certificate of health may be placed in quarantine by the commis-
28 sioner under such rules and regulations as he may approve, and

29 held therein at the expense of the owner, and if such animal is
30 found affected with any contagious, infectious or communicable
31 disease, shall at the option of the owner be killed, without com-
32 pensation to the owner, or continued in quarantine at the expense
33 of the owner. It shall be unlawful to remove any such domestic
34 animal from quarantine unless it shall have passed a satisfactory
35 examination, and the tuberculin test in the case of bovine animals
36 for dairy and breeding purposes, and unless the charges for the
37 quarters, feed, water and attendance have been paid to the person
38 entitled thereto. The expenses incurred in providing such animal
39 or animals with proper quarters, food, and water may be recovered
40 by the commissioner from the owner by an action at law as other
41 debts are by law collectible. When notified by an officer or agent
42 of the commissioner not to do so, it shall be unlawful for any
43 person to receive or keep, or have in his keeping or possession, any
44 domestic animal imported or brought into this state in violation of
45 any of the provisions of this act, or to allow any such domestic
46 animal to come into contact with any other domestic animal.

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Sec. 8. No domestic animal that has been used or is to be
2 used for dairy or breeding purposes shall be imported or brought
3 into this state except subject to the following regulations: There
4 shall be provided for each bovine animal over six months old a
5 health certificate and a tuberculin test chart, each in triplicate,
6 from a veterinary inspector of the United States bureau of animal
7 industry, or from the state veterinarian, or duly authorized and
8 officially certified veterinarian of the state from whence the animal
9 has been transported or moved. The original of the certificate and
10 of the chart shall be attached to the waybill, when the animal shall
11 be brought into the state by common carrier, and the duplicate
12 sent so as to reach the office of the commissioner before the animal
13 reaches the point of destination and the triplicate shall be retained
14 by the veterinarian issuing the certificate. If the animal shall be
15 brought into the state other than by common carrier the office of
16 the commissioner shall be notified before such animal shall be
17 brought in. The original certificate and the chart shall be in the
18 possession of the person who shall bring such animal into the state,
19 and shall be surrendered to any officer or agent of the commissioner
20 on demand. The duplicate thereof shall be sent to the commis-
21 sioner as aforesaid. Such notice to the commissioner shall state
22 when and where and how the animal is to be brought into the state.

23 Such certificates and chart shall show that the animal is free from
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24 Texas fever ticks, and all transmissible diseases. The chart must
25 show that an approved preparation of tuberculin has been used, and
26 that the examination and tuberculin test have been carried out in
27 a manner approved by the commissioner. *Provided, however,* that
28 from herds which are recorded and certified as free from tubercu-
29 losis either by the state veterinarian or other accredited authority
30 of such states as the commissioner may see fit to recognize for this
31 purpose, or may be so recorded and certified by the United States
32 bureau of animal industry, animals may be permitted to enter the
33 state upon such herd certificate in lieu of the tuberculin test chart
34 hereinbefore required.

35 This section and section seven of this act shall not apply to
36 animals brought into the state for immediate slaughter, or to
37 animals brought into the state for temporary exhibition purposes
38 only, after a permit for each animal for exhibition purposes shall
39 have been obtained from the commissioner who shall prescribe
40 such conditions for the issuance and duration of such permits as
41 to him may seem proper.

42 No apparently healthy bull or heifer under six months of age
43 shall be subject to tuberculin test.

44 If the commissioner shall suspect the genuineness of any
45 health certificate or tuberculin test chart relating to imported
46 animals, or shall question the competency of the person of the
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47 state of export who shall have issued such chart or certificate, he
48 may decline to accept the same; and may refuse to permit the
49 importation of the animals concerned, unless a certificate and
50 chart be furnished from the proper inspector of the bureau of
51 animal industry of the United States, or unless the said commis-
52 sioner shall otherwise determine. It shall be unlawful for any
53 person to sell for dairy or breeding purposes any domestic animals
54 brought into the state for immediate slaughter, or to use or permit
55 to be used any such animal for dairy or breeding purposes.

Sec. 9. Any bovine animal, not accompanied by the health
2 certificate and tuberculin test chart required by section eight of
3 this act, may be brought into this state only under the direct
4 supervision of an officer, or agent of the commissioner subject to
5 the provisions of section seven of this act and to the following
6 regulations:

7 Each animal shall be held in close quarantine at such place,
8 under such conditions and during such time as may be prescribed
9 by the commissioner, and during the period of such quarantine
10 shall be submitted to a physical examination and tuberculin test
11 by an agent of the commissioner. The examination and test shall
12 be at the expense of the owner. During the continuance of such
13 quarantine the animal shall be provided with proper quarters, feed
14 and water by the owner, or at his expense.

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Sec. 10. Whenever any of the diseases enumerated in section
2 six of this act, or any other disease of domestic animals or poultry
3 now or hereafter adjudged and proclaimed by the commissioner to
4 be of a transmissible character, shall exist anywhere in the state,
5 a quarantine of any locality or premises, or of any infected or
6 exposed animals or poultry, may be established. Quarantine shall
7 be of two kinds, special and general.

8 A special quarantine shall mean a quarantine of a single
9 animal: or a quarantine of a single building, structure, pen, coop,
10 car, vessel, vehicle, field, or enclosure; or a quarantine of any
11 number of animals or poultry when confined or contained in the
12 same building, structure, pen, coop, car, vessel, vehicle, field or
13 enclosure.

14 A general quarantine shall include all quarantines not in-
15 cluded under the term special **quarantine as herein defined.**

16 A special quarantine may be established and maintained
17 whenever any domestic animal or poultry shall be affected with
18 or exposed to any of the diseases enumerated in section six of this
19 act, or any other disease of domestic animals or poultry now or
20 hereafter adjudged and proclaimed by the commissioner to be of a
21 transmissible character, or there shall be any animal or poultry
22 which it is deemed necessary by the commissioner to have examined
23 or tested. The commissioner or his authorized agent shall have
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24 the power to establish and maintain any special quarantine. It
25 shall be the duty of the commissioner or his agent establishing a
26 special quarantine to post on the building, structure, pen, coop, car,
27 vessel, vehicle, field or enclosure, wherein the animal or animals or
28 poultry quarantined are confined or contained, a notice declaring
29 the quarantine, a description of the animal or animals or poultry
30 quarantined, and of the premises where quarantined, and of the
31 duration of such quarantine. Such quarantine may continue for

32 such time as the commissioner, or his agent, establishing the same
33 may deem advisable to accomplish the purpose of quarantine.

34 A general quarantine may be established and maintained
35 whenever any of the diseases enumerated in section six of this act,
36 or any other disease of domestic animals or poultry now or here-
37 after adjudged or proclaimed by the commissioner to be of a trans-
38 missible character, shall exist in any locality in the state larger in
39 extent than that which may be included in a special quarantine.
40 A general quarantine shall be established and maintained by the
41 commissioner only. Such quarantine shall include such premises,
42 locality or territorial district, and such animals, and shall continue
43 for such time as may be deemed necessary or advisable by the said
44 commissioner. In establishing and maintaining such quarantine
45 the said commissioner may act through and by an officer, agent
46 employed by him to whom such power is delegated; and the estab-

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47 lishment and maintenance of such quarantine by any officer, agent
48 or employee of said commissioner shall be *prima facie* the estab-
49 lishment and maintenance of quarantine by said commissioner.
50 Whenever any premises or any locality or territorial district shall
51 be placed in or under quarantine by said commissioner, it shall be
52 the duty of the officer, agent or employee of said commissioner by
53 whom the order of the commissioner as to quarantine is executed,
54 to post notices within the premises, locality or territorial district
55 quarantined, declaring the extent and limits of premises, locality,
56 or territorial district so quarantined, and the animals subject to
57 such quarantine. At least ten such notices shall be posted in the
58 most public places within said quarantined area. A copy of such
59 notice shall be published in one newspaper published within such
60 quarantined area; or if there be no such newspaper, then in one
61 newspaper circulating generally within such area. If the quaran-
62 tine shall be for the purpose of preventing the spread of rabies or
63 hydrophobia, and if in the judgment of the commissioner, in the
64 case of other infectious, contagious or otherwise communicable
65 diseases such action is necessary the notice shall contain a warning
66 to the owners of dogs within the quarantined area to confine closely
67 all such dogs.

Sec. 11. After the establishment of any quarantine authorized
2 by this act, and the posting of notices required by law, it shall be
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3 unlawful for any person, without a special permit in writing from

4 the commissioner to remove from or to any premises within the
5 limits of the quarantine any domestic animal or poultry; or to
6 remove from any quarantined area or premises any hay, straw,
7 grain, fodder, or other food, or animals or poultry, or to remove
8 any car or wagon or vessel so quarantined; or to seel or exchange
9 or give away or lease or lend or remove, or allow to be removed,
10 any quarantined domestic animal or animals or poultry. It shall
11 be unlawful, after notice as aforesaid, for the owner of any dog to
12 permit such dog to run at large in any such quarantined locality,
13 or for any person, to remove, or permit to be removed, any dog
14 from such quarantined area. Any dog found running at large in
15 such quarantined area, or known to have been removed from or to
16 have escaped from such area as aforesaid, may be secured and con-
17 fined, or may be shot or otherwise destroyed by any person without
18 liability therefor.

Sec. 12. It shall be unlawful for any person to tear down or
2 deface or to destroy any notice of quarantine posted by any officer,
3 agent, or employee of the commissioner or to remove or destroy,
4 wholly or partially, any portion of a building or tree or fence
5 whereon the same shall have been posted.

Sec. 13. When any quarantine shall be established under
2 this act, it shall be unlawful for the owner of any domestic animal
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3 within the limits of the quarantine area to allow such domestic
4 animal to run at large during the continuance of the quarantine.
5 Any animal so found running at large shall be taken up by the
6 proper constable, and kept at the expense of the owner until the
7 lifting of the quarantine. For such service he shall be entitled
8 to one dollar for each animal. Each animal shall be kept until
9 such fee and all costs of keeping such animal shall have been paid.
10 If not paid within two weeks from the lifting of the quarantine,
11 the animal may be sold; and after the deduction of all fees, costs
12 and expenses, the residue shall be paid to the owner, if known,
13 and if not known, shall be paid into the state treasury. This
14 section shall not apply to dogs, or effect the special provisions of
15 this act in reference to dogs.

Sec. 14. Animals that shall be placed in quarantine by au-
2 thority of the commissioner or his agents shall be provided with
3 suitable quarters, and fed and watered by or at the expense of the
1 owner. In default of payment by such owner of the expense of
5 providing suitable quarters and of feeding and watering any of

6 such animals within ten days after the lifting of said quarantine,
7 the commissioner may call or cause to be sold any such animal, at
8 public sale, to collect such expense. Any surplus received at said
9 sale, over the expense aforesaid, shall be paid to such owner. No
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10 animal shall be removed from a quarantine area until such sale,
11 except upon payment of such expense.

Sec. 15. Whenever it shall be required to destroy or dispose
2 of the carcass of any animal to prevent the spread of disease such
3 destruction or disposal shall be made by one of the following
4 methods:

5 *First*—Complete cremation of the entire carcass with all its
5-a parts and products.

6 *Second*—Boiling the carcass and all its parts and products in
7 water, or heating the same with steam at the temperature of boil-
8 ing water, continuously during at least two hours.

9 *Third*—Burial of the carcass and all its parts and products
10 in such place that shall not be subjected to overflow from ponds or
11 streams, and which shall be distant not less than one hundred feet
12 from any water-course, well, or spring, public highway, house or
13 stable. In burying such carcass it shall be covered with quick-lime
14 to a depth of not less than three inches, and the top of such carcass
15 shall not be within two feet of the surface of the ground when such
16 grave is filled and smothered to the level of the surrounding sur-
17 face. Such grave shall be so protected that the carcass may not
18 be accessible to dogs or other animals.

19 Whenever any animal affected with any of the diseases enu-
20 merated in section six of this act, or with any disease now or here-

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21 after adjudged and proclaimed by the commissioner to be of a
22 transmissible character, shall die or be killed, it shall be the duty
23 of the owner of such animal at once to destroy or dispose of the
24 carcass of such animal in the manner provided in this section. It
25 shall be unlawful to sell any such carcass or any part thereof or
26 any hide or offal therefrom. *Provided, however,* that if the owner
27 of such animal shall not within twenty-four hours dispose of the
28 carcass as provided by law, it shall be the duty of the commissioner
29 or his agent to cause the same to be destroyed or disposed of ac-
30 cording to law, at the cost of such owner. The expense of such de-
31 struction or disposal may be collected from such owner as debts
32 of like amount are by law collectible.

Sec. 16. It shall be unlawful for any person to drive or move
2 or transport on or across or along any public highway, in wagons
3 or railroad cars or other vehicles, any animal affected with any
4 disease enumerated in section six of this act or with any disease
5 hereafter adjudged and proclaimed by the commissioner to be
6 of a transmissible character, except upon express permission in
7 writing from the commissioner or his agent.

Sec. 17. The commissioner or his agents or the inspectors
2 of the United States bureau of animal industry, shall possess
3 authority to test with tuberculin any bovine animal kept within
4 this state, subject to such rules and regulations as the com-
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5 missioner may prescribe. The tuberculin test shall be applied
6 to bovine animals at such times as may be designated by the
7 commissioner as may be necessary in the control and eradication
8 of bovine tuberculosis in this state, and all cows whose milk is
9 sold for human consumption or manufacture and all uncastrated
10 beef animals shall be tested with tuberculin in so far as may be
11 possible. When any such bovine animal is found by the officer
12 making the test to give what the commissioner shall have pre-
13 scribed by his rules and regulations to be a clearly defined
14 reaction to such test, the said animal shall be considered to be
15 affected with bovine tuberculosis, and shall be marked or branded
16 upon the right side of the neck from six to ten inches back from
17 the jaw bone with a capital "T," not less than two inches high,
18 one and one-half inches wide and mark one-fourth of an inch
19 wide; unless the owner elects as hereinafter provided to keep the
20 animal in quarantine for eight weeks when the animal shall
21 again be tested by the commissioner or his agent at the expense
22 of the owner, and if the animal again gives a clearly defined
23 reaction it shall be branded. Any bovine animal affected with
24 advanced or generalized tuberculosis or tuberculosis of the udder
25 may be similarly branded and such branding shall not be con-
26 strued as cruelty to animals within the meaning of the penal laws
27 of this state. If such a reacting animal be pure bred and regis-

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28 tered or eligible to registry, and the owner of such reacting animal
29 shall desire to keep it, such option is allowed, provided the animal
30 does not, in the judgment of the officer making the examination
31 and test, show evidence of physical breakdown, then or at any
32 time thereafter, probably due to the disease, and it shall then

73 the appraiser designated, is not satisfactory to the owner of
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74 such animal, a written notice of such fact, setting forth the
75 reasons for complaint, shall be made to the appraiser at once.
76 The amount of the appraisal shall then be determined by arbi-
77 trators, one to be appointed by the appraiser and one by the
78 owner of the animal. If said arbitrators are not able to agree
79 as to the amount of appraisal, a third arbitrator shall be ap-
80 pointed by them, whose decision shall be final. Arbitrators
81 shall be paid one dollar for each appraisement of five or less
82 than five animals, and two dollars if more than five animals
83 are appraised. Compensation for the arbitrator appointed by
84 the owner and the third arbitrator, if appointed, shall be paid
85 by the commissioner if the decision made is against the arbi-
86 trator appointed by the veterinarian, but if the decision is in
87 favor of such arbitrator the owner shall pay the compensation
88 of the arbitrator appointed by him and the third arbitrator, if
89 appointed.

90 After such agreement has been executed and appraisal has
91 been made it shall be the duty of the commissioner or his agent
92 to see that the animal is slaughtered and the carcass disposed of
93 in accordance with the meat inspection regulations of the United
94 States bureau of animal industry, or in such manner as the com-
95 missioner shall prescribe. When the animal is to be slaughtered,
96 as herein provided, the commissioner or his agent shall make
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97 and deliver to the owner a certificate which may cover any num-
98 ber of animals belonging to the same owner, showing the age
99 and description of each animal found to be tuberculous, the
100 name and place of test, the mark or brand as tuberculous and any
101 other mark or brand which the animal may bear, the date when
102 and the place to which the animal was sent for slaughter by the
103 veterinarian, the designation of the officer who is to supervise the
104 slaughter, the appraised value of said animal or animals, the
105 name and address of the owner of the animal, and the fact that
106 he has executed the agreement hereinbefore provided for. The
107 officer supervising the slaughter shall, immediately after the
108 same, endorse upon or add to the foregoing certificate that he
109 has witnessed the slaughter of each of said animals, the place
110 and date thereof, that the number, age, description and brand
111 or mark correspond to those given in the certificate of the

112 officer who made the former certificate, and shall state the
113 result of his post-mortem examination, the description made
114 of the carcass, and the price received for the same by the
115 veterinarian. The slaughter may be supervised and certificate
116 thereof may be made by the commission or any of his agents,
117 or any person possessing the authority of an agent, or any officer
118 of the United States bureau of animal industry. The com-
119 missioner may require such other particulars to be added to

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120 either of said certificates or the affidavit hereinafter required,
121 and may make and enforce such rules and regulations govern-
122 ing the handling, shipping and slaughter of such animals as
123 may be deemed necessary.

124 The owners of such animals shall be indemnified in such
125 amount as shall be determined by the results of post-mortem
126 inspection by the officer supervising the slaughter according
127 to the following rules:

128 *Rule 1*—If any animal is found, upon post-mortem in-
129 spection, not to be affected with tuberculosis, the carcass and
130 other edible portions shall be passed as food, and the vete-
131 rinarian shall sell the same, including all accompanying parts
132 for the best price obtainable, which price shall be paid to
133 the owner and deducted from the amount of appraisal, and
134 the balance, if any, thus remaining, shall be paid the owner.

135 *Rule 2*—If any animal is found, upon post-mortem in-
136 spection, to be affected with tuberculosis, and the lesions are
137 such that the carcass and parts of the carcass are passed for
138 food, the veterinarian shall sell the same, including all accom-
139 panying parts for the best price obtainable, which price shall
140 be paid to the owner and deducted from eighty per centum of
141 the amount of the appraisal, and the balance, if any, thus re-
142 maining shall be paid the owner.

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143 *Rule 3*—If any animal, upon post-mortem inspection is
144 condemned for offal, the veterinarian shall sell the hide and
145 offal for the best price obtainable, which price shall be paid
146 to the owner and deducted from forty per centum of the
147 amount of appraisal, and the balance, if any, thus remaining
148 shall be paid the owner.

149 After such tuberculous animals shall have been slaughtered
150 as herein provided for, the veterinarian shall as soon as possible

151 forward to the commissioner who shall, if found to be correct,
152 approve the same and within thirty days file with the county
153 court of the county in which said animals were owned at the
154 time they were condemned as tuberculous, as herein provided,
155 the foregoing certificates, together with the owner's claim for
156 indemnity, and his affidavit that he has thoroughly cleaned and
157 disinfected his premises and complied with all the regulations
158 of the commissioner in respect thereto and in respect to the
159 to the remainder of his herd. If the said county court, upon
160 examination of the certificates filed as aforesaid and of the
161 affidavit of the claimant and any evidence that may be pre-
162 sented, shall find the claim is regular and the facts herein set
163 up are true, and that the claimant is entitled to indemnity as
164 herein provided, the county court shall make an order allowing
165 the claimant one-half of the indemnity hereinbefore provided

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166 for, which shall be paid upon the order of the county court out
167 of the general funds of the county. The commissioner shall
168 at the end of the fiscal year issue his warrant upon the state
169 auditor in favor of the claimant, for the remaining one-half of
170 the indemnity allowed, which shall be paid out of any moneys
171 appropriated for carrying out the provisions of this act; *provided*,
172 that at the end of each fiscal year the claimants for such cer-
173 tificates of value shall be paid the same from the current ap-
174 propriations made for that purpose; *provided*, that the amount
175 to be paid on such certificates in any one year shall not exceed
176 the amount appropriated for such purpose, which amount shall
177 be paid pro-rata at the end of each fiscal year; *provided, further*,
178 that the right to indemnity shall not exist nor shall payment be
179 made in either of the following cases:

180 1. For animals owned by the United States, this state or
181 any county, city, town or village in this state.

182 2. For animals brought into this state contrary to the
183 provisions of this act, or where the owner of the animal or per-
184 son claiming compensation has failed to comply with the provi-
185 sions of the same.

186 3. When the owner or claimant at the time of coming into
187 possession of the animal knew or had reason to believe it to be
188 afflicted with a dangerous or contagious disease.

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189 4. When the owner shall have been guilty of negligence

190 or had carelessly exposed such animals to the influence of contagious or infectious disease.

Sec. 18. Whenever, to prevent the spread of any disease mentioned in section six of this act, it shall be deemed necessary by the commissioner or any of his agents to cause any domestic animal to be killed, and the owner thereof shall desire to receive indemnity therefor, the owner thereof shall be required to execute an agreement with the commissioner or his agent that he will thoroughly clean and disinfect all premises that may have been infected by such diseased animals in such manner as the commissioner or his agent may prescribe. Such an agreement shall be in duplicate, one copy to be retained by the signor and in such form as the commissioner may designate, and shall be signed by the owner or owners or their agents, and shall be in force for a period of two years from the date thereof. The commissioner or any agent so authorized shall act as appraiser, and shall appraise each such diseased animal within five days prior to its slaughter, basing the amount upon the market value of the animal at the time of appraisal. Animals reacting to any approved test for a disease but otherwise apparently healthy shall be appraised without considering the presence of a diseased condition, but animals exhibiting any physical evidence of disease shall be appraised as

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diseased animals, taking into consideration the condition of the animal as to the disease, and the nature and extent of the disease, and its present and probable effect on the animal, and having regard to the probable sums to be derived from the sale of the carcass, hide and offal. The amount of appraisal shall in no case exceed for a non-registered equine animal the sum of seventy-five dollars, for a registered equine animal the sum of one hundred dollars, for a non-registered bovine animal fifty dollars, for a registered bovine animal seventy-five dollars; for a sheep or pig the sum of ten dollars. If the amount of appraisal of any animal as determined by the appraiser designated is not satisfactory to the owner of such animal, the appraisal may be made by arbitrators as provided in section seventeen of this act. After such agreement has been executed and appraisal has been made, it shall be the duty of the commissioner or his agent to see that the animal is killed and the carcass disposed of in accordance with the provisions of this act and the rules of the commissioner. When the animal is to be killed the commissioner or his agent shall make and deliver to the owner a

39 certificate which may cover any number of animals belonging to
40 the same owner, showing the age and description of each animal,
41 the appraised value of said animal or animals, the name and ad-
42 dress of the owner of the animal and the fact that he has executed
43 the agreement hereinbefore provided for. At the end of each fiscal
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44 year the holders of such certificates of value shall be paid two-
45 thirds of the value of the same from the current appropriations
46 made for carrying out the purpose of this act; *provided*, that the
47 amount paid on such certificates and those similarly provided for
48 in section seventeen of this act in any one year shall not exceed
49 the appropriation made therefor, which amount shall be paid pro-
50 rata at the end of each fiscal year on an order signed by the com-
51 missioner. When any animal is so killed the owner subject to
52 the regulations of the commissioner may dispose of the whole or
53 any part of the carcass and of the hides and offal in such manner
54 as may not tend to spread disease or affect the health of the
55 public.

Sec. 19. Without express permission in writing from the
2 commissioner or his agent it shall be unlawful for any person to
3 sell or offer for sale, or to give away, or to allow to stray, any
4 animal affected with any disease enumerated in section six of this
5 act, or with any disease now or hereafter adjudged and pro-
6 claimed by the United States bureau of animal industry to be
7 of a transmissible character, or any animal that has reacted to
8 any tuberculin or mallein test, or with such permission to sell
9 or offer for sale, or to give away, any such animal without notify-
10 ing the purchaser or prospective purchaser or the person to whom
11 the animal shall be sold or given, that the animal is affected or

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12 has reacted as aforesaid, or that it has been in a herd affected
13 with such a disease within one year, except when for immediate
14 slaughter in accordance with the meat inspection regulations of
15 the United States department of agriculture; or to dispose of to
16 another in any manner any animal that may be in quarantine until
17 such time as the quarantine shall have been raised by the proper
18 officer, or to dispose of the meat or milk of any animal that may
19 be affected with such contagious, infectious or communicable
20 disease for use as food or for other purposes except in such manner
21 as shall be provided by the commissioner; *provided, however*, that
22 nothing in this section shall be construed as interfering with

23 the provisions of the state or national pure food or meat inspec-
 24 tion laws, except that the milk from tuberculous cows may be sold
 25 under such regulation for its sterilization before use as the com-
 26 missioner may prescribe.

Sec. 20. The commissioner may prescribe methods of mak-
 2 ing tests with tuberculin, mallein, or other recognized tests for the
 3 diagnosis of diseases of animals.

Senate Bill No. 129

[BY MR. MCCLUNG.]

Introduced January 20, 1915. Referred to the Committee on
 Medicine and Sanitation. January 29, reported back with the recom-
 mendation that it do Pass; rules suspended, taken up out of its order
 for immediate consideration; read a first time by its title, and ordered
 to a second reading.

A BILL to create a state department of health, defining its powers
 and duties; to change the name of the state board of health, and
 limit and define its duties; to amend the public health laws; to
 invest the department of health with the management and control
 of the state tuberculosis sanitarium; to provide penalties
 for violation; and to appropriate money for purposes of public
 health.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There is hereby created and established a state de-
 2 partment of health, which shall be constituted as provided in this
 3 act, and shall exercise all the powers and duties now conferred
 4 and imposed by law upon the state board of health, except as here-
 5 in reserved, and such other powers and duties as are herein pro-
 6 vided for.

7 The state department of health shall consist of a commis-
 8 sioner of health, whose office shall be located in Charleston, West
 9 Virginia; a public health council, directors of division, district
 10 health officers, and other employees as herein provided for.

Sec. 2. The commissioner of health shall be appointed by

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2 the governor, by and with the consent of the senate, and shall be
 3-4 a physician skilled in sanitary science, and experi-
 5 enced in public health administration. The term of office of the

6 commissioner of health shall be four years. He shall receive an
7 annual salary of five thousand, and necessary expenses incurred
8 in the performance of official business, and shall not engage in
9 any other occupation that will interfere with his official duties.

10 The commissioner of health shall be the administrative head
11 of the state department of health, and he shall be *ex officio* a mem-
12 ber of its public health council. His duties shall be to adminis-
13 ter the laws and regulations of the department; to prepare rules
14 and regulations for the consideration of the public health council;
15 to appoint and remove, with the approval of the public health
16 council, district health officers and directors of divisions, and fix
17 their compensations within the limitations of appropriation there-
18 for; to appoint and remove inspectors and other necessary em-
19 ployees, and fix their compensations within the limitations of
20-22 appropriation therefor; to advise with the public
23 health council and local health officers, and to perform all execu-
24 tive duties now required by law of the state board of health and
25 other customary duties incident to his position as chief executive
26 officer, and shall provide for offices and equipment necessary for
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27 the transactions of the business of the state department of health,
28 out of funds appropriated for the state department of health.

29 He shall submit annually to the governor on or before the
30 first day of July or as soon thereafter as practicable a report of
31 the operations of the department with recommendations as to
32 needed health laws, which shall be printed and distributed as
33 soon as practicable thereafter in the same manner as other public
34 documents of the state, except that the governor shall cause said
35 report to be printed annually.

36 The commissioner of health may direct any executive officer
37 or employee of the state department of health to assist in the
38 study, control, suppression and prevention of diseases in any part
39 of the state, and necessary expenses shall be paid while in the
40 performance of such duty.

Sec. 3. The public health council shall consist of the com-
2 missioner of health and six members, hereinafter called the ap-
3 pointive members, who shall be graduates of a regular medical
4 school of five years' experience, to be appointed by the governor,
5 by and with the advice and consent of the senate. Of the appoint-
6 ive members first appointed, three shall hold office for two years,
7 and three for four years; the terms of office of the appointive
8 members thereafter appointed, except to fill vacancies, shall be

9 four years; vacancies shall be filled by appointment for the un-

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10 expired term. The public health council shall meet at least twice
11 a year, and at such other times as they shall determine by their
12 rules, or upon the request of the commissioner of health, the ap-
13 pointive members to receive ten dollars per diem and actual and
14 necessary travelling expenses, when engaged in the discharge of
15 their duties.

16 The public health council shall elect one of its members pres-
17 ident, who shall serve two years as such. The commissioner of
18 health shall be secretary of the public health council, and shall de-
19 tail an officer or employee of the department of health from time
20 to time, as the public health council may require, in the trans-
21 action of its official business.

22 It shall be the duty of the public health council to promul-
23 gate rules and regulations; take evidence in appeals; approve
24 plans and appointments; hold hearings; advise with the commis-
25 sioner of health; define the qualifications of local health authorities,
26 district health officers and directors of divisions, and discharge oth-
27 er like duties required by law of the present state board of health;
28 but it shall have no administrative or executive functions.

29 The public health council shall have power, by the affirmative
30 vote of the majority of its members, to establish and, from time to
31 time, amend regulations under the public health laws, the enforce-
32 ment of which devolve upon the state commissioner of health.

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33 Every regulation adopted by the public health council shall
34 state the day on which it takes effect, and a copy thereof, duly
35 signed by the commissioner of health, shall be filed in the office
36 of the secretary of state, and a copy thereof shall be sent by the
37 the commissioner of health to each health officer within the state,
38 and shall be published in such manner as the public health coun-
39 cil may determine. The regulations so promulgated, not incon-
40 sistent with this act, shall have the force and effect of law, and
41 shall supersede all municipal ordinances heretofore or hereafter
42 enacted inconsistent therewith; and any violation of any portion
43 thereof shall be a misdemeanor, and punishable by a fine of not
44 less than ten dollars nor more than five hundred, and by impris-
45 onment, in the discretion of the court, for not more than thirty
46 days in the county jail; and a justice of the peace shall have con-
47 current jurisdiction of such misdemeanors.

Sec. 4. The commissioner of health shall, with the advice of the public health council, divide the state into six sanitary districts, following county lines, and shall appoint a district health officer for each district. The district health officer shall, under the direction of the commissioner of health, perform the following duties: Keep himself informed as to the work of each local health officer within his sanitary district; and each health officer within his sanitary district in the performance of his du-

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ties; assist each local health officer within his sanitary district in making an annual sanitary survey of the territory within his jurisdiction, and in maintaining therein a continuous sanitary supervision; call together local health officers within his district, or any portion of it, from time to time for conference; adjust questions of jurisdiction arising between local health officers within his district; study the cause of excessive mortality or morbidity from any disease in any portion of his district; promote efficient registration of births, deaths and notifiable diseases; inspect and report upon from time to time the sanitary condition of institutions, schools and school houses, public conveyances, dairies, creameries, slaughter houses, workshops, factories and places where offensive trades or industries are conducted in his district, and labor camps, inspect and report upon, when required by the commissioner of health, the sanitary condition of streams, sources of water supply, and sewerage facilities within his district; endeavor to enlist the co-operation of all physicians, and volunteer health organizations within his district, in the improvement of public health therein; promote the information of the general public in all matters pertaining to the public health.

District health officers shall be appointed by the commissioner of health, with the approval of the public health council, at a salary of two thousand dollars per annum, and actual and S. B. No. 129]

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necessary expenses, which expenses before being paid shall be itemized and sworn to by the officer who incurred the same, and approved by the commissioner of health. District health officers shall act as representatives of the commissioner of health in their respective jurisdictions, and under his direction, shall secure the enforcement of the provisions of the public health laws and regulations, and shall have the right of entry into any workshop, public school, factory, dairy, creamery, slaughter house, or other place of business or employment, or any common carrier or public

41 utility, or private house when in the discharge of official duties.
42 Any person interfering with or attempting to interfere with a
43 district health officer in the discharge of his duties under this sec-
44 tion, shall be guilty of a misdemeanor, and, upon conviction, fined
45 not exceeding one hundred dollars, and a justice of the peace
46 shall have jurisdiction of such offenses. District health officers
47 shall not engage in other occupations, and the commissioner of
48 health may, from time to time, order two or more of said district
49 health officers into one district in order to study, suppress, per-
50 vent or control disease.

Sec. 5. There shall be in the state department of health the
2 following divisions:

3 . Divisions of Preventable Diseases.

4 Divisions of Sanitary Engineering.

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5 Division of Food and Drugs.

6 Division of Vital Statistics.

7 The commissioner of health shall appoint, with the advice
8 of the public health council, a director to take charge of each di-
9 vision, and shall prescribe, with the advice of the public health
10 council, the duties of each division and arrangement of the sub-
11 divisions, if any, thereof. The compensation of directors of di-
12 visions shall be fixed by the commissioner of health, in the man-
13 ner herein provided.

Sec. 6. The state department of health is invested with all
2 the rights and charged with all the duties pertaining to organi-
3 zations of like character, and shall be the sole adviser of the state
4 in all questions involving the protection of the public health with-
5 in its limits, and shall take cognizance of the interests of the life
6 and health of the inhabitants of the state, and shall make, or
6a cause to be made, sanitary investigations and inquires respecting
7 the cause of diseases, especially of epidemic, endemics and the
8 means of prevention, suppression or control; the source of mor-
9 tality, and the effects of localities, employments, habits and cir-
10 cumstances of life on the public health, and shall gather informa-
11 tion in respect to these matters, and kindred subjects for diffusion
12 among the people. It shall inspect and examine food, drink and
13 drugs offered for sale or public consumption in such manner as
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14 shall be deemed necessary by officers or employees, and shall re-
15 port all violations of all laws of this state relating to pure food,

16 drinks and drugs to the prosecuting attorney of the county in
17 which such violations occur, and lay before such prosecuting at-
18 torney the evidence in its knowledge of such violations. The com-
19 missioner of health, any member of the public health council, or
20 any district health officer may make complaint and cause proceed-
21 ings to be instituted against any person or persons or corporation
22 for a violation of any of the health laws of this state, without the
23 sanction of the prosecuting attorney of the county in which pro-
24 ceedings are instituted; and in all such cases they shall not be re-
25 quired to give security for costs. Any of said officers may also
26 appear in any court in this state in any case for violation of the
27 health laws, and prosecute in the manner, and with the same au-
28 thority as a prosecuting attorney; and in such cases they may, by
29 direction of the commissioner of health, and in the event of the
30 refusal or neglect of the prosecuting attorney to act, employ an
31 attorney to whom, or to the prosecuting attorney, an attorney's
32 fee of ten dollars shall be taxed in the costs in case of conviction.
33 It shall make rules and regulations, not inconsistent with law,
34 regulating the character, the location of plumbing, drainage, wa-
35 ter supply, sewers and disposal of sewage, garbage, or other waste
36 material of cities, towns and villages, offensive trades, and labor

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37 camps; and the ventilation, warming, natural lighting, and ex-
38 creta disposal in public utilities, in public halls, churches, school
39 houses, work shops, prisons and all other public institutions.

40 It shall provide and enforce regulations governing the dis-
41 posal of excreta in coal mines; examine into and advise with the
42 chief of department of mines as to the ventilation of coal mines,
43 and how to treat promptly accidents, resulting from poisonous
44 gases. The state department of health is empowered to establish
45 and strictly maintain quarantine at such places as it may deem
46 proper, and may adopt rules and regulations to obstruct and pre-
47 vent the introduction or spread of smallpox or other contagious
48 or infectious diseases into or within the state, and shall have the
49 power to enforce these regulations by detention and arrest, if
50 necessary. It shall have power to enter into any town, city or
51 corporation, factory, railroad train, steamboat, or other place
52 whatsoever and enter upon and inspect private property for the
53 purpose of investigating the sanitary and hygienic conditions,
54 and the presence of cases of contagious and infectious diseases:
55 and may, at its discretion, take charge of any epidemic or endemic

56 conditions, and enforce such regulations as it may prescribe. All
57 expenses for guards, or other expenses incurred in controlling any
58 endemic or epidemic conditions, shall be paid by the county or
59 municipality in which such epidemic occurs.

60 The state department of health shall provide, at its discre-
61 tion, vaccine lymph, diphtheria antitoxin, tetanus antitoxin, and
62 other form or serum or vaccine preventives of disease that it may
63 deem necessary; and distribute same free of charge to county and
64 municipal health officers, to be used for the benefit of the poor and
65 indigent, and in other cases, where it may be urgently necessary,
66 to check contagions, and contro epidemics.

Sec. 7. The commissioner of health shall inquire into and
2 investigate all nuisances affecting the public health in any coun-
3 ty, city or village in the state, and is authorized and empowered,
4 by information or petition filed in the name of the commissioner
5 of health, to apply to the judges, or to any judge of the circuit
6 court for the county in which such nuisance shall exist, in term
7 or vacation, for an injunction forthwith to restrain, prevent or
8 abate such nuisances, no matter by whom or by what authority
9 committed; and such injunction cases shall take precedence over
10 other cases before the court, and shall be speedily tried.

Sec. 8. When in the opinion of the public health council
2 any local health authority shall fail or refuse to enforce necessary
3 laws and regulations to prevent and control the spread of con-
4 tagious or infectious disease, declared to be dangerous to the pub-
5 lic health, or when, in the opinion of the said council, a public
6 health emergency exists, the commissioner of health may enforce

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7 the rules and regulations of the state department of health within
8 the territorial jurisdiction of such local health authorities and
9 for that purpose shall have, and may exercise, all the powers given
10 by statutes to local health authorities; all expenses so incurred to
11 be a charge against the counties, cities or towns concerned. And
12 in such cases the failure or refusal of any local health officer, or
13 local health body, to carry out the lawful orders and regulations
14 of the public health council, shall be sufficient cause for the re-
15 moval of such local health officer or local health body from office.

Sec. 9. The public health council shall make regulations to
2 provide clean and safe milk and fresh milk products, and when
3 promulgated, these regulations shall be the minimum require-

4 ments to be enforced by local health authorities throughout the
5 state.

Sec. 10. The state tuberculosis sanitarium is hereby remov-
2 ed from the class of institutions mentioned in section three of
3 chapter fifty-eight of the acts of one thousand nine hundred and
4 nine, and its management and control as provided in section one
5 of chapter six of the acts of one thousand nine hundred and elev-
6 en, hereby is transferred, with all its duties and functions, to the
7 division of preventable diseases of the state department of health.
8 The director of the division of preventable diseases under the su-
9 pervision of the commissioner of health, shall encourage measures
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10 for the suppression of tuberculosis, such as clinics, camps, open
11 air schools, sanatoria, district nursing, anti-tuberculosis societies,
12 diffusion of knowledge, and other means.

Sec. 11. There is hereby created a state board of medical
2 examiners, whose sole duty shall be the examination of appli-
3 cants for license for the practice of medicine and surgery in the
4 manner now provided by law for the government of the state
5 board of health, in such examinations, including the reciprocity
6 clause as it now exists. The state board of medical examiners
7 shall report to the commissioner of health the result of the ex-
8 amination of all applicants for certificates to practice medicine
9 and surgery, who shall issue certificate of license to all applicants
10 who have complied with all of the requirements of law in that
11 respect. Such certificates may be revoked by the state board of
12 medical examiners with the approval of the commissioner of
13 health, in the manner and for the causes now prescribed by law.

14 Within thirty days after this act becomes a law, the governor
15 shall appoint one physician from each congressional district, mak-
16 ing in all six members, who shall constitute the state board of medi-
17 cal examiners; three of whom shall be appointed for a term of two
18 years, and three for a term of four years; and thereafter appoint-
19 ments thereto shall be made for a term of four years, except ap-
20 pointments to fill out an unexpired term. Said physicians shall

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21 be graduates of reputable medical schools, and shall have prac-
22 ticed medicine for at least six years. The state board of medical
23 examiners shall meet three times each year, at such time and
24 place as they by affirmative majority vote shall decided, and the
25 compensation of each member shall be ten dollars per diem and

26 the necessary traveling and othe rexpenses while in actual dis-
27 charge of their duties.

Sec. 12. The commissioner of health, may, with the advice of
2 the public health counsel, establish branches of the hygienic lab-
3 oratory at such points within the state as he may deem necessary in
4 the interest of the public health to insure prompt bacteriologic
5 examinations, and for the purpose shall expend annually a sum
6 not in excess of one thousand dollars in any one place.

7 A town, city or county, or two or more towns, cities or coun-
8 ties may combine to co-operate with the state department of
9 health, either by special vote or by vote of their respective boards
10 of health, and participate in the employment of trained health
11 officers, and other agents, and in the installation and maintenance
12 of a common laboratory and other equipment. Whenever such
13 towns, cities or counties shall decide to so co-operate and shall ap-
14 propriate a sum or sums of money for such joint or co-operative
15 action, a sum equal to two-fifths of the total amount contributed
16 by the co-operating towns, cities or counties, shall be paid over
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17 and added thereto from the treasury of the state; *provided*, that
18 the general place of co-operation, as well as the principal health
19 officer, executive agent or laboratory director employed by such
20 towns, cities or counties shall first have been approved by the pub-
21 lic health council; and, *provided* further, that no sum so paid to
22 any town, city or county, or group of towns, cities or counties,
23 shall exceed one thousand dollars in any one year; and, *provided*,
24 such co-operation by the state department of health shall be lim-
25 ited to not more than one place in any one sanitary district of the
26 state.

Sec. 13. There is hereby appropriated from any moneys in
2 the state treasury not otherwise appropriated, the sum of thirty-
3 five thousand dollars, annually, for the use of the state depart-
4 ment of health in carrying out the provisions of this chapter, to
5 be expended at the direction and upon the approval of the state
6 board of control, in the manner provided by chapter fifty-eight
7 of the acts of one thousand nine hundred and nine.

Sec. 14. All acts and parts of acts inconsistent with the
2 act are hereby repealed.

Senate Bill No. 74

[BY MR. McCLUNG.]

Introduced January 18, 1915. Referred to the Committee on Education. January 28, reported back with the recommendation that it do pass. February 5, taken up in regular order, read a first time and ordered to a second reading.

A BILL to repeal sections thirty-eight, fifty-three and one-half, and ninety-nine of chapter twenty-seven of the acts of one thousand nine hundred and eight, extra session, relating to education, and to amend and re-enact sections fifty-three, fifty-four, fifty-five, fifty-six, fifty-eight, sixty, sixty-one, sixty-two sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven and ninety-seven of chapter twenty-seven of the acts of one thousand nine hundred and eight, extra session, relating to education.

Be it enacted by the Legislature of West Virginia:

That sections thirty-eight, fifty-three and one-half, and ninety-nine of chapter twenty-seven of the acts of one thousand nine hundred and eight, extra session, relating to education be repealed and that sections fifty-three, fifty-four, fifty-five, fifty-six, fifty-eight, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven and ninety-seven of the acts of one thousand nine hundred and eight, extra session, relating to education, be amended and re-enacted so as to read as follows:

School Trustees; Appointment; Oath; Term.

Sec. 53. The board of education of each district shall, at
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Custodian of School Property; May Recommend Teachers.

Sec. 56. The school trustee shall be custodian of all the school
2 property in his sub-district, except that of high schools, and as
3 such he shall cause the school house, or houses, to be kept in proper
4 repair, the furniture, supplies, apparatus, library, charts, maps and
5 globes to be preserved; and the doors and windows to be kept locked
6 when the school house is not in use. Said trustee may, upon re-
7 quest of the board, recommend one or more teachers for the school
8 of his sub-district; but the appointment or employment of all teach-
9 ers and principals of schools is reserved to the board of education.

Librarian.

Sec. 58. The trustees of any sub-district where there is a
2 school library containing one hundred volumes or more may upon

3 the petition in writing of at least half of the taxpayers of the sub-
 4 district employ a responsible person to care for such school library
 5 during the time the school is not in session, and to open the said
 6 library for at least part of one day in each week at which time the
 7 patrons, pupils and other citizens of such sub-district may draw
 8 out books from such library under such rules and regulations for
 9 the care and return thereof as the board of education may prescribe.
 10 For his service the said librarian shall be paid an amount not to
 11 exceed five dollars a year out of the building fund of the district,
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 12 by order of the board of education, upon a written statement by
 13 said trustee that such service has been properly rendered.

Shall Visit Schools.

Sec. 60. It shall be the duty of the school trustee to visit the
 2 school, or schools, in his sub-district from time to time for the pur-
 3 pose of inspecting the sanitary and other physical conditions of
 4 the school house and the school grounds, and of ascertaining what
 5 supplies are needed; but he shall have no authority to interfere
 6 in any way with the teaching and conduct of the school, except
 7 that if in his judgment the teacher is failing to do his or her
 8 duty, he may notify the board of education to that effect.

Shall Purchase Supplies.

Sec. 61. Each school trustee shall be the local representa-
 2 tive of the board of education in all matters pertaining to the care
 3 and upkeep of the grounds, buildings and equipment of the school
 4 or schools, in his sub-district. He shall also, when authorized by
 5 the board of education, purchase necessary supplies, employ a jan-
 6 itor, or janitors, provide fuel, and render any other reasonable ser-
 7 vice which the board of education may require of him; *provided*,
 8 *however*, that no janitor shall receive more than three dollars a
 9 month for each room; and, *provided, further*, that the teacher of
 10 any school may perform such janitor service and receive such com-
 11 pensation therefor, if he so desires. Janitor service shall be paid
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12 for by the board of education out of the building fund of the dis-
 13 trict, upon a certificate of the school trustee that said service was
 14 faithfully and properly rendered.

May Allow School House Used.

Sec. 62. The school trustee shall have authority to permit
 2 the use of any school house in his sub-district for the holding of
 3 religious, political, literary or social meetings, and for the con-

ducting of Sunday School or any other meetings of the people that he may deem of interest to the public generally, all such public gatherings so held to be under such regulations as the board of education shall make relative to the care of school property while being so used, the cleaning of same after such use and the guarantee for damages to any school house or any part thereof on account of such meeting; *provided, however,* that such meetings shall not interfere with the work of the public schools; and, *provided, further,* that said trustee shall not interfere with any meeting planned by the teacher expressly for the benefit of the pupils and their parents, such as school literaries, social meetings, and observances of national holidays.

Make Estimates and Report.

Sec. 63. It shall be the duty of every school trustee to furnish to the board of education, whenever requested, and at the end of the school term, estimates of all improvements and repairs

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necessary for the care and preservation of buildings, grounds, or furniture under his charge; also, a report of the condition of the school house, the value and kind of apparatus and supplies, the number of volumes in the school library and their value, with such explanation and additional information as he may deem useful, or as the report blank furnished by the board of education or by the state superintendent may require.

Shall Keep Account of Expenses; By Whom Paid.

Sec. 64. Every school trustee shall keep an exact account by items of all necessary expenses incurred by him in the performance of his duty and shall, at the end of each month, or at the end of the school term, and in every case before the first day of July of any year, forward to the secretary of the board of education an itemized sworn statement of the same. If said board find the statement made by said trustee correct and just, it shall be their duty, at any regular or special meeting, to issue an order upon the sheriff for said amount, to be paid out of the building fund of the district.

Under Supervision of Board of Education.

Sec. 65. The trustee of each sub-district shall be under the supervision and control of the board of education, and in all cases his actions shall be subject to revision and correction by the said

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their first regular meeting to be held on the first Monday in July,

3 one thousand nine hundred and fifteen, and on the first Monday in
 4 July of each year thereafter, appoint one intelligent, discreet
 5 person as trustee for each sub-district in their district. Every
 7 trustee so appointed shall immediately be notified of his appoint-
 8 ment; and he shall, within ten days after receiving such notifica-
 9 tion, qualify as such by taking and subscribing to the oath of
 10 office prescribed by section five of article four of the constitution.
 11 Said trustee shall serve for a term of one year, and until his suc-
 12 cessor shall be appointed and shall have qualified according to law.
 13 The term of office of all trustees in office at the close of the school
 14 year ending June thirtieth one thousand nine hundred and fifteen
 15 shall terminate on that date.

May be Removed; How.

Sec. 54. Any school trustee may, for neglect of duty, or for
 2 other good cause shown, be removed from office by the board of edu-
 3 cation upon five days notice in writing, of the cause alleged for his
 4 removal, and of the time and place the board will take action there-
 5 on.

Vacancy in Office; How Filled.

Sec. 55. Any vacancy which may occur in the office of the
 2 school trustee shall be filled by the board of education for the un-
 3 expired term.

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Transfer of Pupils.

Sec. 66. Whenever any pupil authorized to attend school is
 2 so situated as to be better accommodated in the free school of an
 3 adjoining sub-district or independent district, whether in the same
 4 or in adjoining county, it shall be the duty of the trustee of the
 5 sub-district in which such pupil lives to transfer him for school
 6 purposes to the school in which he can best be accommodated, for
 7 such period as such pupil would be entitled to attend school in his
 8 own sub-district; and it shall be the duty of the trustee of the
 9 school to which such pupil is transferred to admit said pupil into
 10 said school; *provided*, that any such transfer shall be subject to
 11 appeal to the county superintendent of schools whose decision shall
 12 be final; *provided*, further, that the enumeration of youth shall
 13 be taken in each sub-district or independent district as if no trans-
 14 fer had been made.

Divide Expenses.

Sec. 67. But in all cases of transfer of pupils from one dis-
 2 trict to another the board of education of the district from which

3 the transfer is made shall pay to the board of education of the dis-
 4 trict to which such pupil is transferred the tuition of said pupil,
 5 out of the teachers' fund, not to exceed two dollars and fifty cents
 6 a month.

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Teachers' Authority.

Sec. 97. The teacher shall stand in place of the parent, and
 2 have control of all the children enrolled in his school from the
 3 time they arrive at the school grounds until they return to their
 4 respective homes, and may exclude from his school any pupil hav-
 5 ing a contagious or infectious disease, and may suspend or expel
 6 any pupil guilty of disorderly, refractory, indecent or immoral
 7 conduct. But the action of the teacher in excluding, suspending,
 8 or expelling any pupil shall be subject to review by the board of
 9 education or by the county superintendent of schools.

Senate Bill No. 137

[BY MR. MARSHALL.]

Introduced January 20, 1915. Referred to the Committee on
 Counties and Municipal Corporations. January 27, reported back
 with the recommendation that it do pass. January 29, taken up in
 regular order, read a first time and ordered to a second reading. Feb-
 ruary 4, read a second time; amended, special order February 5,
 11:30. February 5, taken up, amended, ordered to its Engrossments
 and third reading.

A BILL concerning the payment by counties into the state treasury
 of charges and expenses on account of inmates in certain public
 institutions of the state, and to repeal section two hundred and
 thirty-one of chapter forty-five of the code (serial section twenty-
 three hundred and sixteen of the code of one thousand nine hun-
 dred and thirteen), section twelve of chapter sixty-five of the
 acts of one thousand nine hundred and seven (serial section
 thirty-three hundred and eighty-four of the code of one thousand
 nine hundred and thirteen), sections ten, eleven and twelve of
 chapter seventy of the acts of one thousand nine hundred and
 thirteen (serial sections twenty-three hundred and thirty, twenty-
 three hundred and thirty-one and twenty-three hundred and

thirty-two of the code of one thousand nine hundred and thirteen, and all other conflicting acts.

Be it enacted by the Legislature of West Virginia:

Sec. 1. Beginning with the first day of July, one thousand nine hundred and fifteen, each county shall pay into the state treasury the sum of fifty-two dollars per year, and at that rate for any period less than a year, for each inmate from the county who was cared for and maintained in;

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(1) Any of the hospitals or asylums for the insane, or any institution of the state for the care and maintenance of epileptics, the feeble-minded, imbeciles, idiots, or other defectives, mental or physical, now existing or hereafter created;

(2) The West Virginia industrial school for boys, the West Virginia industrial home for girls;

(3) The schools for the deaf and the blind, the West Virginia children's home, and the West Virginia colored orphans' home

Sec. 2. Immediately after the close of each fiscal year after the year ending June thirtieth, one thousand nine hundred and fifteen, the superintendent of each of said institutions shall make out and certify, in duplicate, a list showing the following facts, and such others as the state board of control shall require, namely: The name, color, sex and age of each inmate cared for and maintained in his institution for any part of the preceding fiscal year; the name of the county of which he was a resident at the time of his admission; (or if his residence has changed since, the name of the county of which he is a resident;) the date of his admission, the length of time during the preceding fiscal year he was an inmate, the amount due for his care and maintenance for such time at the rate fixed herein; all payments made by or on behalf of any inmate, by whom paid, and the date and amount of each of such payments.

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Said list for each institution, except the schools for the deaf and the blind, and the home for children, and the home for orphans, shall also give the amount paid by the institution or by the state for transportation of each inmate thereto, including transportation for any inmate returned thereto who was out on parole. One of said lists the superintendent shall deliver to the state board of control within ten days after the close of each fiscal year, after the fiscal year ending June thirtieth, one thousand nine hundred and fifteen,

23 and the other he shall file among the records of his institution.
24 The time in any fiscal year that an inmate was out on bond, or was
25 maintained otherwise than at the cost of the state, shall not be
26 charged for in said report.

Sec. 3. From the lists received from the superintendents of
2 institutions named in section one hereof, the state board of con-
3 trol, shall without delay, make up and certify a statement, in
4 triplicate, for each county named in any such list, showing the
5 following facts and others the board may think necessary: The
6 name, color, sex and age of each inmate, except those who have paid
7 or others have paid for them the entire cost of their care and main-
8 tenance, and all transportation expenses; the name of the institu-
9 tion of which an inmate, when admitted therein, and the length of
10 time he was in such institution during the preceding fiscal year,
11 and the amount due for his care and maintenance and transporta-

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12 tion, and the whole amount due from the county on account of all
13 the inmates named in such list. In such list there shall be stated
14 all payments made by, for or on behalf of any inmate named
15 therein, giving the date, amount, by whom paid, and the name of
16 the inmate on whose behalf each payment was made, and the
17 board shall deduct the amount of all such payments from the
18 whole amount due, and the balance or net amount thereby shown
19 shall be a debt due from the county to the state, and shall be
20 paid into the state treasury and collected as hereinafter provided.
21 One of such statements for each county shall be transmitted to
22 the clerk of the county court of the county, one shall be filed with
23 the auditor, and the other the board shall file in its office. The
24 clerk of the county court shall lay such statement before the
25 county court at its next session, and file and safely keep the same
26 in his office. If the county court shall find any errors therein it
27 shall report the same, with the facts or reasons, to the state board
28 of control, and the board shall consider the same, shall certify to
29 the auditor any such error, and the auditor shall credit the ac-
30 count of the county with the amount thereof and report the same
31 to the sheriff of the county.

Sec. 4. The amount shown to be due from any county by
2 any such statement certified by the state board of control, shall
3 be a debt due from the county to the state, and it shall be the duty
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4 of the county court of the county to cause the same to be paid in-

5 to the state treasury, and include the amount in the next levy
6 for county purposes. On receipt of any such statement the audi-
7 tor shall charge the amount shown thereby to be due from the
8 county to the state, and notify the sheriff of the county thereof.
9 The auditor shall appropriate to the payment of such amount any
10 moneys in the state treasury, or that may thereafter come there-
11 in, to the credit of the county; and if there be none such, or
12 they be insufficient, the auditor shall collect the same in any man-
13 ner provided by law. On or before the tenth day of each month
14 the auditor shall report to the state board of control all payments
15 made into the state treasury in the preceding month by each
16 county on account of any such statement against it, stating the
17 name of the institution for which paid in; and if any payment
18 made be less than the entire amount due, the auditor shall state
19 for which institutions the payment was made, and the amount
20 paid in on the account of each institution. All amounts paid
21 by counties shall be known as "state board of control funds", and
22 shall be credited by the auditor to the institution on whose ac-
23 count the same was paid; and the amounts so paid shall be sub-
24 ject to the requisition of the state board of control, from time to
25 time, for the benefit of the institution on whose account the same

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26 was paid; and all such moneys and funds are hereby appropriated
27 for the purpose.

Sec. 5. For all moneys which any county shall pay or be-
2 come liable for under the provisions of this chapter, or the pro-
3 visions of chapter fifty-eight of the code of West Virginia, the
4 county court of the county may recover, within five years after
5 payment of the same by the county or from the time the county
6 becomes liable therefor, from the persons and in the manner fol-
7 lowing, namely:

8 (1) If the inmate be a minor, from his guardian; or, if
9 he have no estate, or it be insufficient, from his father; or, if he
10 have no father or his estate be insufficient, from his mother.

11 (2) Respecting inmates of the institution named in clause
12 one of section one hereof, from those who are minors, as provided
13 in clause one of this section. If an adult, from his or her estate;
14 but if such estate be insufficient and the inmate be a wife, from
15 the estate of her husband; or, if his estate be insufficient, from
16 the estate of her children, or such of them as have sufficient es-
17 tate. If the inmate be a husband, and his estate be insufficient,

18 from the estate of his wife; or, if her estate be insufficient, from
 19 the estate of his children, or such of them as have sufficient es-
 20 tate.

11 (3) Respecting the inmates of the institutions named in
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12 clauses two and three of section one hereof, as provided in clause
 13 one of this section.

14 It shall be the duty of the guardian or committee of any in-
 15 mate of any of the institutions named in section one hereof to
 16 pay to the county of which his ward is a resident, if he have
 17 sufficient estate in his hands to do so, the money due to the
 18 county from his ward. The county court may order its clerk
 19 to make out a bill against the guardian or committee of any such
 20 inmate for the sum due the county, which bill shall show the
 21 different items and the amount of each, and be certified by the
 22 clerk as correct, and by him delivered to the sheriff for collec-
 23 tion. The clerk shall charge against the sheriff the amount of
 24 each of such bills, showing the date when delivered to the sheriff.
 25 It shall be the duty of the sheriff to collect the same from the
 26 proper guardian or committee. Within sixty days after receiving
 27 any such bill, or at the next session of the county court held after
 28 the expiration of such sixty days, the sheriff shall make a report
 29 to the county court of his acts in respect thereto, and return all
 30 such bills he has been unable to collect. The county court may
 31 re-deliver any of such bills to the sheriff for collection; and in
 32 respect thereto the sheriff shall make report as above provided.
 33 In the recovery of moneys due the county arising under the pro-
 34 visions of this chapter, all the provisions of chapter fifty-eighty

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35 of the code of West Virginia shall apply as far as applicable, as
 36 well as sections fifteen to eighteen of chapter forty-six of said
 37 code, as far as they may be applicable; and the county court may
 38 proceed according to the provisions of said chapters without first
 39 placing the claim in the hands of the sheriff for collection; *pro-*
 40 *vided*, that as to any person liable to the county for any money
 41 under the provisions of this chapter, the county court may, if it
 42 find he is unable to pay the same, or that the payment of the same
 43 would work a hardship upon him or his family or others depend-
 44 ent upon him, exonerate him from the payment of the same, or
 45 from a part thereof, or make any other order in the matter that

46 the county court shall deem just and equitable, or expedient,
47 under all the circumstances of the case.

Sec. 6. Section two hundred and thirty-one of chapter forty
2 five of the code (serial section twenty-three hundred and six-
3 teen of the code of one thousand nine hundred and thirteen); sec-
4 tion twelve of chapter sixty-five of the acts of one thousand nine
5 hundred and seven (serial section thirty-three hundred and eighty-
6 four of the code of one thousand nine hundred and thirteen; sec-
7 tions ten, eleven and twelve of chapter seventy of the acts of one
8 thousand nine hundred and thirteen, (serial sections twenty-three
9 hundred and thirty, twenty-three hundred and thirty-one and
10 twenty-three hundred and thirty-two of the code of one thousand
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11 nine hundred and thirteen,) and all other acts and parts of acts
12 coming within the purview of this act, and inconsistent therewith,
13 are hereby repealed.

Senate Bill No. 266

[BY MR. GOODYKOONTZ]

Introduced February 2, 1915. Referred to the Committee on
Finance; February 6,—reported back with the recommendation that it
do pass;—February 13, taken up in regular order for consideration,
read a first time and ordered to a second reading.

A BILL authorizing the county court of Wayne County to lay a
special levy of ten cents for general road purposes for each of the
fiscal years one thousand nine hundred and fifteen and one
thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That the county court of Wayne county be and is hereby
2 authorized to lay a levy of ten cents on each one hundred dollars
3 property valuation in said county, at its levy term, for each of the
4 fiscal years one thousand nine hundred and fifteen and one thou-
5 sand nine hundred and sixteen to be known as "special county road
6 levy", the same to be collected as other taxes and expended under
7 the direction of said county court for road purposes only.

Senate Bill No. 327

Originating in the Committee on Roads and Navigation and reported with the recommendation that it do pass; February 11, rules suspended, taken up out of its order, read a first time and ordered to a second reading.

A BILL authorizing and directing the county courts of the several counties to establish, construct and maintain main county roads; to provide a county road fund for the construction and maintenance of same; to create a state road fund and to provide for its expenditure; defining the powers of county courts as to county levies for road and bridge purposes, and providing for and prescribing the duties of the state road bureau and state road engineer in relation to said county roads and bridges thereon.

Be it enacted by the Legislature of West Virginia:—

Sec. 1. The county court of every county shall establish not 2) to exceed two main thoroughfares, or highways through the coun- 3 ty, at least, one of which shall pass through the county seat, which 4 highways shall be known as “main county roads” and shall be con- 5 structed and maintained by taxation upon all the taxable property 6 of the county and from the proceeds of the state road fund. As 7 far as practicable said main county roads shall traverse the county 8 in opposite directions, and so that each may connect with a main 9 county road of an adjoining county, or state, or extend to the bound- 9-a ry of the county, and pass through or near important 4 [S. B. No. 327

10 towns. In establishing such “main county roads” the county 11 court may designate a road already established or such 12 parts of it as the court may deem practical. No county road 13 shall have a grade exceeding five feet rise in each one hundred feet, 14 unless it shall be found necessary to have a steeper grade, and in 15 such case such steeper grade shall not exceed nine per cent and 16 shall be for as short a distance as may be practicable. The right-of- 17 way for such roads shall not be less than forty feet in width, with 18 necessary slopes, cuts and fills. All such main county roads shall 19 have bridges and culverts of permanent construction, and all 20 “breakers” shall be eliminated. The county court of each county 21 may apply to the state road bureau in such form as may be pre- 22 scribed by such bureau, and it shall be the duty of the state road 23 engineer, or his assistant, as promptly as practicable, to go upon

24 the road or roads designated by the county court as a main county
25 road, or upon the routes for such roads, and to lay out and locate
26 the same and make a report to the county court accompanied by
27 such description, maps, sketches or diagrams, estimates, plans and
28 specifications, as he may think necessary and as are now required
29 by law. No such main county road shall be established by the coun-
30 ty court without the approval of the state road bureau.

Sec. 2. There is hereby created a "state road fund" which
2 shall consist of the net proceeds of all license taxes imposed and
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3 collected upon automobiles, motor or steam driven vehicles, and the
4 registration fees imposed on chauffeurs on and after the first day of
5 January, nineteen hundred and fifteen, and which may hereafter
6 be imposed and collected thereon, and all sums of money which
7 may be donated to such fund, or appropriated by the legislature, or
8 by the congress of the United States, or from any other source.
9 The auditor shall set aside said moneys as the "state road fund"
10 and it shall be used only for the purposes named in this act. Said
11 state road fund shall be used for the purpose of paying the ex-
12 penses of the state road bureau as may be fixed by the Legislature;
13 the cost of laying out and locating main county roads as pro-
14 vided in section one of this act, and the balance thereof shall
15 be distributed among the counties annually, to the credit of the
16 county road fund, in proportion to the mileage of the main county
17 roads in each county. All expenditures out of the state road fund
18 shall be made upon certificate of the state road engineer and when
19 approved by the state board of control, shall be paid upon its
20 requisition. All moneys accruing to the state road fund, as afore-
21 said are hereby appropriated out of said fund for the purposes and
22 to be paid as aforesaid.

Sec. 3. The county court shall have authority to designate
2 as a part of a main county road any street, or portion of a street,
3 in any incorporated city, town or village, and may expend labor
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4 and money, so far as may be necessary to put the same in good
5 condition; but the municipality shall thereafter maintain in good
6 condition, such main county road lying within its corporate lim-
7 its. In any case where any municipality is unable financially to
8 construct and maintain the bridges on any main county road
9 within its corporate limits, the county court may construct and
10 maintain the same. And the county court of any county may take

11 over any bridge or bridges heretofore built by any municipality
12 on any main county roads, when requested to do so by the authori-
13 ties thereof, and thereafter maintain the same. Such main county
14 roads shall be laid off into sections not exceeding one mile in
15 length, and each section shall be numbered, beginning at the coun-
16 ty seat. Whenever it shall be deemed convenient and necessary,
17 one of said main county roads may traverse any portion of an-
18 other of such roads.

Sec. 4. In addition to the general county and district levy,
2 the county court shall lay a special county road levy not to exceed
3 twenty cents on each one hundred dollars assessed valuation of all
4 taxable property in the county, to be known as the "county road
5 fund" and to be expended only for the construction, improvement
6 and maintenance of the main county roads and for the construc-
6-a tion and maintenance of the bridges thereon after said roads are
7 properly located. In case of calamity, such as floods and the like,
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8 which shall result in unusual damage, or the washing away of
9 bridges or roads, the county court of any county, with the written
10 approval of the state tax commissioner and the state road engineer
11 may lay a special emergency levy in excess of the special levy here-
12 inbefore provided, not to exceed ten cents on each one hundred dol-
13 lars assessed valuation of the taxable property of the county for
14 such year or years as may be named in such approval; but in no
15 case shall the combined special road levy and emergency levy ex-
16 ceed thirty cents on each one hundred dollars valuation of the tax-
17 able property of the county. Hereafter no county court shall levy
18 any special county road or bridge tax except as in this section pro-
19 vided, and the funds in any county treasury remaining from any
20 bridge levy heretofore made by any county court and not needed
21 for the purpose of building any proper bridge shall be used for the
22 construction and maintenance of main county roads: *provided*,
23 that in any county where the county court has already subscribed
24 for or purchased, or contracted to purchase the whole or a portion
25 only of the stock or bonds, or both, of any bridge company, the
26 county court, for the purpose of carrying into effect such contract
27 or option, may lay any levy or levies provided for by law before
28 this act takes effect.

Sec. 5. The county court of any county, may contract and
2 pay for making, improving and keeping in order, the whole or any
3 part of any main county road within the county. They may per-

4 manently improve by the use of asphaltum, brick, stone, block or
5 by macadamizing, or other process of equal merit, the main county
6 roads within their county and may contract therefor with any con-
7 tractor for the use of any of these foregoing systems, and take bond
8 and security in a penalty equal to the estimated cost of the work
9 in question, from any such contractor for the faithful performance
10 of his contract.

Sec. 6. When in the opinion of the county court the levy
2 herein provided for, together with any funds appropriated by the
3 state, are insufficient to construct the main county roads and the
4 bridges thereon, the said court is hereby authorized to issue and
5 sell bonds of the county and raise funds for such construction, and
6 upon its own motion or upon petition of one hundred legal voters,
7 who are freeholders of said county, the court shall submit the
8 proposition for issuance of bonds as aforesaid, to the legal voters
9 of said county, and may by an order specify the work to which
10 the money is proposed to be appropriated, and the amount of the
11 proposed appropriation, cause a vote to be taken upon the question
12 at the several places of voting in said county, at the succeeding
13 general election for state and county officers, or any special elec-
14 tion, whichever is first held in the county after such vote is order-
15 ed taken, or by special election that the said county court may deem
16 proper and may order for the purpose; but such order must be
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17 published throughout the said county thirty days at least before
17-a the poll is taken, as follows:

18 The clerk of the county court shall cause as many copies of
19 such order to be written or printed as may be necessary, and
20 sign the same; he shall forthwith post one of them in a conspicu-
21 ous place in his office, one at the front door of the court house and
22 shall deliver the others to the sheriff of the county, who shall forth-
23 with post one of the said copies in a conspicuous place at every
24 voting place in the county aforesaid.

25 The court shall direct a copy to be published for four succes-
26 sive weeks prior to the date of said election, in one or more news-
27 papers if they are published in said county. A poll shall there-
28 upon be taken and the result ascertained under the regulations
29 prescribed for general elections for county officers; or if the said
30 vote is taken at a special election, ordered for the purpose, the
31 same shall be held by commissioners appointed for the purpose by

32 the county court at the time said election is ordered, and the re-
33 sult shall be ascertained and certified according to the regulations
34 prescribed by law for ascertaining and certifying the election of
35 county officers.

36 The ballots used in taking the said poll shall be the same as
37 those used in voting for officers at the general election for state and
38 county officers, except when the same is taken at a special election

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39 as hereinbefore provided for, and there shall be written or print-
40 ed thereon the words "for bonds" and "against bonds", or any other
41 words that will show how the voter intends to vote on the question
42 proposed.

43 If it appears by the said poll that not less than three-fifths
44 of the voters of the county who voted upon the proposed issuance
45 of bonds are in favor of the same, the county court will then have
46 authority to issue the amount of the bonds so voted in the name
47 of the county, or any less amount on any such terms as they may
48 deem advisable, and provide for the payment thereof by county
49 taxation. The county court shall have authority to issue said
50 bonds for and in the name of the said county, and to make pro-
51 visions for the payment of principal and interest of the same by
52 said county as is required by law in such cases upon the terms
53 and conditions so specified in the order under which said vote is
54 taken.

55 The president of the county court shall have power when so
56 directed by such court, by an order entered of record therein, to
57 execute, sell and deliver the bonds of said county, and receive the
58 proceeds therefrom, and said bonds of said county shall be valid
59 and binding thereon when signed by the president of the county
60 court of such county, and countersigned by the clerk thereof, with
61 the seal of said county attached thereto.

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Sec. 7. No bridge to be constructed on any main county road
2 having a span of forty feet or more, shall be built, or let to con-
3 tract to be built until the plans and specifications therefor have
4 been approved by the State Road Engineer. Upon application of
5 the county court, the state road engineer shall prepare plans and
6 specifications for any such bridge. Nor shall any contract be let
7 for the building of any such bridge until such contract shall be
8 approved by the state road engineer. All such contracts shall be
8-a let to the lowest responsible bidder. No such contract shall be

9 left to any person, association of persons, company or corporation
 10 who, or which, is connected directly, indirectly or otherwise with
 11 any combination in the form of an unlawful trust in restraint of
 12 trade, or who, or which enters into any understanding, directly
 13 or indirectly, to limit in any manner competition in bidding upon
 14 the construction of any bridges, or for furnishing any materials
 15 entering therein. Any such combination or unlawful trust is here-
 16 by prohibited; any person, association of persons, company or cor-
 17 poration entering into or being a part of any such combination or
 18 unlawful trust shall be guilty of a misdemeanor, and, upon con-
 19 viction thereof, shall be fined not exceeding ten thousand dollars;
 20 and every person, including the officers or members of any corpo-
 21 ration, who shall be engaged in any way in effecting any such com-
 22 bination or unlawful trust or aiding or abetting the same, or know-

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23 ingly committing any acts in pursuance thereof, in addition to be-
 24 ing subject to the fine aforesaid, may, in the discretion of the
 25 court, be imprisoned not exceeding six months.

Sec. 8. All acts and parts of acts coming within the purview
 2 hercof and inconsistent herewith are hereby repealed.

Senate Bill No. 320

[BY MR. GREGORY.]

Introduced February 10, 1913. Referred to the Committee on the
 Judiciary. February 13, reported back with the recommendation that
 it do pass; taken up for immediate consideration, read a first time and
 ordered to a second reading.

A BILL to consolidate, amend and re-enact the acts of the legislature
 of one thousand eight hundred and eighty-seven, chapter twenty;
 the acts of one thousand eight hundred and ninety-three, chapter
 forty; the acts of one thousand nine hundred and one, chapter
 twenty-seven; and the acts of one thousand nine hundred and five,
 chapter eighty-three, being chapter one hundred and fourteen-b
 of the code of one thousand nine hundred and thirteen, and ser-
 ial sections forty-six hundred and twenty-four to forty-six hun-
 dred and thirty inclusive, relating to the employment of official
 stenographers by the court, defining their duties, the uses to which

the records made by them may be put, and providing for the manner of their payment.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the acts of the legislature of one thousand nine hundred and eighty-seven, chapter forty, of the acts of one thousand nine hundred and three, chapter twenty-seven, of the acts of one thousand nine hundred and one, and chapter eighty-three of the acts of the legislature of one thousand nine hundred and five, being chapter one hundred and fourteen-*b* of the code of one thousand nine hun-

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dred and thirteen, serial section forty-six hundred and twenty-four, forty-six hundred and twenty-five, forty-six hundred and twenty-six, forty-six hundred and twenty-seven, forty-six hundred and twenty-eight, forty-six hundred and twenty-nine, forty-six hundred and thirty, be amended, consolidated and re-enacted so as to read as follows:

Sec. 1. The circuit courts, the criminal courts and courts
2 of limited jurisdiction having a judge, or the judges thereof in va-
3 cation, are hereby empowered and authorized to employ and appoint
4 a competent stenographer for each of said courts, to take and re-
5 port the proceedings had and the testimony given in any case,
6 either civil or criminal, or in any other proceeding had in said
7 courts, including the taking of testimony before the grand jury,
8 for the use of the prosecuting attorney or the circuit court; and
9 in proceedings before the judge of either of said courts in vacation,
10 and otherwise to aid the judges of the respective courts in the per-
11 formance of their official duties. The stenographers so appointed
12 by the judges of said several courts shall be authorized to attend
13 the sessions of the grand jury, but shall retire from said session
14 and the grand jury room when directed by the foreman or a ma-
15 jority of the grand jury, or ordered to do so by the court; and
16 when the grand jury desire to consult or vote upon any matters
17 before them, such stenographer shall retire. Said appointment
18 and employment of such stenographer may be made by the judge
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19 of said courts, by an order entered of record in said court, and
20 the stenographer so appointed shall be designated as the "official
21 stenographer of the court." Such stenographer
22 shall hold his office during the pleasure of the judge. Any reporter
23 so appointed shall be competent in the practice of his art, and shall
24 be duly qualified under oath.

Sec. 2. It shall be the duty of such reporter to take full

2 shorthand notes of the testimony and proceedings in which his ser-
3 vices may be required, and such notes shall be deemed and held to
4 be official, and the best authority in any matter in dispute, and a
5 copy of the same written out in long hand or in type-writing, made
6 as herein provided, shall be used by the parties to the cause, and in
7 any further proceeding therein wherein the use of the same may
8 be required. It shall be the duty of said official reporter to fur-
9 nish a copy of his notes written out in long hand or typewriting of
10 the testimony and proceedings in any cause, upon the request of
11 the judge, and without extra charge, and in criminal cases, the
12 copy to be filed in the clerk's office.

Sec. 3. Said official reporter shall furnish, upon request, to
2 any party to a case, a copy of the testimony or other proceedings
3 written out in long hand or typewriting, and shall certify the same
4 as being correct, and shall be paid therefor at the rate of ten cents
5 for each one hundred words so transcribed and certified. A copy

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6 of such testimony or proceedings, when certified by the official re-
7 porter and by the judge of said court, shall be authentic for all
8 purposes, and may be used in making up the record on appeal; and
9 in all cases of appeal, said reporter shall also make a carbon copy
10 of the testimony and proceedings required of him, which copy he
11 shall file in the clerk's office of the court in the court in which the
12 case is pending, to be used, if necessary, in making up the record
13 on appeal, but without cost, for such copy, and the said clerk shall
14 not be entitled to any fee for that part of the record in any case
15 wherein the testimony or proceedings so transcribed and certified
16 by said official reporter shall be used in said record.

Sec. 4. Said official reporter shall receive such compensation
2 for his services as the judge of said court shall in his discretion de-
3 termine and allow, for taking the shorthand notes in any cause
4 or proceeding. Such compensation and expenses in all misde-
5 meanor cases shall be certified by said circuit court to the county
6 court of the county in which such services are rendered, and the
7 same shall be paid by said county court out of the county treasury;
8 and in all felony cases such compensation and expenses shall be cer-
9 tified to the auditor of the state, and be paid out of the state treas-
10 ury. All such criminal charges shall be taxed as costs in the case
11 by the clerk, to be collected by the sheriff and by him accounted for
11-a to the county treasurer in misdemeanor cases and to the
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12 state treasurer in felony cases. The expense of reporting and
13 transcribing any civil cases shall be paid equally by the parties
14 to the cause, plaintiff and defendant, but the expenses so paid by
15 the prevailing party shall be taxed as a part of the costs recov-
16 ered.

Sec. 5. Said official reporter is hereby authorized to take and
2 certify depositions in the manner and with the same force and ef-
3 fect, within the county embraced within the judicial circuit of
4 which he has been appointed stenographer or within the county
5 in which the court has jurisdiction, if the same be a criminal or
6 other court of limited jurisdiction having a judge, as a notary pub-
7 lic, and to administer all oaths necessary in the taking of such
8 depositions; and he shall be entitled to the same fee as a notary
9 public for the performance of such duties as herein mentioned in
10 any cause or matter pending in said court, he may, by order of the
11 court be allowed compensation in full as hereinbefore provided in
12 lieu of all other fees.

13 All acts or parts of acts inconsistent herewith are hereby re-
14 pealed.

Senate Bill No. 208

[BY MR. McABOY.]

Introduced January 27, 1915. Referred to the Committee on Banks and Corporations. February 11, reported back with the recommendation that it do pass; February 13, taken up in regular order for consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact sections seventy-seven and eighty of chapter fifty-four of the code of West Virginia, (being serial sections three thousand and thirty and three thousand and forty-seven, respectively, of the Code of one thousand nine hundred and thirteen, and to add section eighty-one-a-XXI to said chapter, relating to banks and banking companies.

Be it enacted by the Legislature of West Virginia:

That sections seventy-seven and eighty of chapter fifty-four of the code of West Virginia be amended and re-enacted, and that section eighty-one-a XXI be added thereto, so as to read as follows:

Sec. 77. The capital stock of every banking company formed

2 under the provisions of this chapter shall not be less than one hun-
3 dred thousand dollars, nor more than one million dollars; except
4 that banks with a capital of not less than fifty thousand dollars
5 may, with the approval of the commissioner of banking, be organ-
6 ized in a place the population of which does not exceed six thousand
7 inhabitants, and except that banks with a capital of not less than
8 twenty-five thousand dollars may, with the sanction of the commis-
9 sioner of banking, be organized in any place the population of

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10 which does not exceed three thousand inhabitants. *Provided*, that
11 any banking company now organized and doing business with a
12 capital stock that does not comply with this section as here amend-
13 ed, shall have the period of two years within which to increase its
14 capital stock to the amount herein named. Said stock shall be
14-a divided into shares of the par value of one hundred dollars
15 each; such shares shall be deemed personal property and transfera-
16 ble on the books of the association in such a manner as may be
17 prescribed in the by-laws of the association; and every person be-
18 coming a share-holder by such transfer, shall, in proportion to his
19 shares, succeed to all rights and liabilities of the prior holders of
20 such shares.

Sec. 80. All banks operating under the provisions of this
2 chapter shall at all times maintain on hand as a reserve, in lawful
3 money of the Uniaed States, an amount equal to at least fifteen
4 per centum of the aggregate of all deposits which are subject to
5 withdrawal on demand, and an amount equal to at least eight per
6 centum of the aggregate of all deposits known as time deposits;
7 and whenever said reserve of any such bnak shall fall below said
8 per centum of such deposits, it shall not increase its liabilities by
9 making any new loans until the required proportions between the
10 aggregate amount of such deposits and its reserve fund shall be
11 restored; *provided*, that two-fifths of such aggregate reserves shall
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12 be kept by such bank in its vault in actual cash, and that in lieu
13 of lawful money on hand three-fifths thereof shall consist of bal-
14 ances payable on demand due from any national or state bank do-
15 ing business in this state, or any solvent banking institution out-
15-a side of this state, which may be approved by the commis-
16 sioner of banking of this state. The words "lawful money", as
17 used in this section, shall mean all moneys issued or redeemable by

18 the government of the United States, notes of the national bank
19 and federal reserve banks.

Sec. 81-a-XXI. Each bank or banking association shall re-
2 port to the commissioner of banking, within ten days after pay-
3 ment of any dividend, the amount of such dividend, and the amount
3-a of its net earnings in excess of such dividend. Such report shall
4 be made upon blanks furnished by the commissioner of banking
5 and in accordance with the requirements thereof, and attested by
6 the oath of the president or cashier of such bank or banking asso-
7 ciation.

Senate Bill No. 172

[BY MR. KEIM.]

Introduced January 22, 1915. Referred to the Committee on In-
do pass. February 1, rules suspended, taken up out of its order for
surance. January 29, reported back with the recommendation that it
immediate consideration; read a first time and ordered to a second
reading.

A. BILL to prevent fraud in the sale and disposition of stocks, bonds,
notes, contracts, or other securities, and certain real estate, sold
or offered for sale, within the state of West Virginia, and provid-
ing penalties for the violations thereof.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That no person or persons mentioned in section six
2 of this act, shall, as principal or agent, promote by advertisement,
3 circular, prospectus, or any other form of public or general offer-
4 ing, inducement or persuasion, the issuance, transfer, distribution,
5 sale or negotiation of any speculative securities, as hereinafter de-
6 fined in section two of this act; unless prior thereto he, or they,
7 shall have filed with the auditor of this state, duly verified by his,
8 or their, oath or affirmation, and accompanied by a filing fee of five
9 dollars, a statement containing the following:

10 *Provided, however,* that this section shall not apply to a *bona*
11 *fide* offer directly made to banks, bankers, brokers or trust compa-
12 nies who deal in such securities.

13 (a) A copy of the securities so to be promoted.

14 (b) A copy of the charter, or articles of association, and by-

- 15 laws, and such other information as may be necessary to
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16 establish the character of the promotion and validity and
17 value of the securities, not otherwise referred to in this sec-
18 tion.
- 19 (c) A statement in substantial detail of the assets and liabilities
20 of the person or company issuing such securities, and of
21 any company or person guaranteeing the same, including
22 specifically the total amount of such securities, and of any
23 securities prior thereto, in interest or lien.
- 24 (d) If such securities are secured by mortgage or other lien, a
25 copy of such mortgage or of the instrument creating such
26 lien, and a competent appraisal or valuation of the proper-
27 ty covered thereby, with a specific statement of all prior
28 liens thereon, if any.
- 29 (e) A full statement of facts showing the gross and net earn-
30 ings, actual or estimated, of any person or company issu-
31 ing or guaranteeing such securities, or of any property cov-
32 ered by any such mortgage or lien.
- 33 (f) All knowledge or information in the possession of such
34 promoter, relative to the character or value of such securi-
35 ties, or of the property or earning power of the person or
36 company issuing or guaranteeing the same; including a
37 statement that such promoter has fully investigated the
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- 38 same, and believes the facts as stated to be reliable and true,
39 with such exceptions, if any, as may be stated.
- 40 (g) A copy of any prospectus or advertising matter which is
41 to be used in connection with such promotion. Such pros-
42 pectus shall contain a clear and concise statement of the
43 amount of money estimated as necessary to carry out the ob-
44 jects of the promotion; the price at which it is intended to
45 sell securities; the amount of promotion expense, commis-
46 sions and other overhead expenses contemplated and the net
47 amount to be derived by the company from the sale of each
48 share of stock, bond, note, contract or other security; and
49 no prospectus or other advertising matter shall be used
50 unless the same has been filed hereunder. But in case no
51 prospectus or advertising matter is filed or used, a state-
52 ment containing the information referred to in this sub-
53 section shall be filed with the auditor.
- 54 (h) The names and addresses of any agents by or through

55 whom any securities are to be sold in this state. And no
 56 agent shall be employed or act unless such statement with
 57 respect to them has been filed hereunder.

58 (i) The names and address of such promoter, including the
 59 names and addresses of all partners, if the promoter be a
 60 partnership, and the names and addresses of the directors

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61 and trustees (and of any and all persons owning ten per
 62 centum or more of the capital stock), if the promoter be a
 63 corporation or association.

64 (j) Compliance by any person or persons mentioned in section
 65 six of this act, with the provisions of this section, shall *ipso*
 66 *facto* operate to appoint the auditor of this state as his, or
 67 their attorney-in-fact, irrevocable, for the specific purpose
 68 of receiving service of notices and processes which may be
 69 issued against him, or them, in any action arising out of
 70 the promotion, negotiation, issuance, transfer, distribu-
 71 tion, or sale by him, or them, in this state of any of the
 72 speculative securities concerning which such compliance is
 73 made; and the service of any such notice or process on said
 74 auditor, or his acceptance of service endorsed thereon shall
 75 be equivalent for all purposes to, and shall be and consti-
 76 tute due and legal service of such notice or process upon
 77 any such person or persons.

78 (k) Immediately after being served with or accepting any such
 79 process or notice, the auditor shall file a copy of such pro-
 80 cess or notice with a note thereon endorsed of the time of
 81 service or acceptance, as the case may be, and transmit such

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82 process or notice by registered mail to the head office of
 83 such person or persons.

84 (l) Suits and actions may be commenced against such person
 85 or persons in the proper court of any county in this state
 86 in which a cause of action may arise. or in which the plain-
 87 tiff may reside.

Sec. 2. The term "speculative securities", as used in this act,
 2 shall include all the stocks and securities mentioned in section six
 3 of this act, which shall, in their subscription, issuance, sale, trans-
 4 fer, negotiation or distribution, be represented to yield a profit to
 5 to the purchaser, or other transferee of more than eight per centum
 6 on the price at which they are offered.

Sec. 3. No person or persons described in section six of this act, and not coming within the terms of section two of this act, shall, as principal or agent, promote by advertisement, circulation, prospectus, or any other form of public or general offering, inducement or persuasion, the issuance, sale, transfer, negotiation or distribution of any of the securities mentioned in section six of this act, without first having notified the auditor, describing such securities. And if it shall appear therefrom, or from any investigation which the auditor is hereby authorized to make, that such information is not sufficient to determine the character and value of such securities, or of such promotion, or of the honesty thereof,

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then such securities shall be taken and deemed to be speculative, under the terms of the preceding section hereof; and after notice in writing by the auditor of state, such securities shall be subject to the provisions of this act regarding speculative securities.

Sec. 3-a. The listing and necessary description of any securities, with the price thereof, in any sales list distributed or advertised by any dealer in securities shall be subject to the provisions of this section.

Sec. 4. (I.) In the case of a person or persons mentioned in section six of this act, not yet on a dividend paying basis, if more than five hundred dollars in cash, or the equivalent at par in the stocks or securities to be promoted, has been or is to be paid or issued for intangible assets or property taken over by such person or persons, a subscription blank showing the amount of such payment or issue, and such other information in connection therewith as may be deemed necessary by the auditor, shall be filed with said auditor, and subscriptions or applications for said stocks and securities shall be recognized by such person or persons only when made upon such subscription blank, and signed by the subscriber or applicant.

The auditor may require stocks or securities, issued or to be issued for property or intangible assets as aforesaid, to be deposited in escrow under such terms as he may prescribe.

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(II.) In the case of stocks, the total promotion expense shall not exceed ten per centum of par value of stock sold, and if sold at less than par, ten per centum of the selling price.

In the case of bonds, notes, contracts, or other securities, the total promotion expense shall not exceed five per centum of par value.

(III.) The provisions of sections one, two and three of this act shall not apply to the stocks of state and national banks(building and loan associations, and corporations not organized for profit; nor to other stocks and securities.

(a). When sold pursuant to the order of any court;

(b). When sales are confined to the old stockholders of the issuing company;

(c). When the issue is taken by the incorporators only as *bona fide* final holders;

(d). When the issue is taken by the stockholders, bondholders, or incorporators in connection with a merger;

(e). When *bona fide* private holdings of promoted stocks, bonds, notes, contracts or other securities are offered for sale.

(IV.) All the provisions of this section shall apply to both speculative and non-speculative securities.

Sec. 5. The auditor shall immediately examine the papers submitted under section one of this act; *provided*, that as to any

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of the papers required to be filed under sub-paragraphs (c), (d) and (e) of section one, the auditor may waive same, or any part thereof, if he has on file sufficient information believed by him to be reliable with reference thereto.

If the provisions of this act are complied with, the auditor shall give notice to the applicant that the papers have been filed, and notice from the auditor of said filing shall, so long as it remains unrevoked, be conclusive evidence of compliance with this act.

If, from the examination of such papers, or of any additional information or proof, or by reason of the failure to file any information or proof required as aforesaid, it shall appear that the issuance,, transfer, sale, promotion, negotiation or distribution of such stocks or securities, constitutes, or would constitute, a violation of this act, the auditor shall so notify such applicant in writing; and no such applicant or other person shall thereafter issue, transfer, sell, promote, negotiate or distribute any such stocks or securities or commit any overt act in connection therewith.

Any person aggrieved by the decision of the auditor of state under this section, shall within sixty days thereafter, have the right to petition any court having jurisdiction, or the judge thereof in vacation, for a writ of mandamus, or for other appropriate remedy, provided by existing law, for the correction of said decision. S. B. No. 172]

26 ion, if the same be erroneous or unjust, or without jurisdiction.

Sec. 6. Any person, co-partnership, association or domestic corporation, or foreign corporation, doing business within the state of West Virginia, or any or all of the officers or agents thereof, alone or in conjunction with others, having devised or intending to devise any scheme or artifice to defraud any person or persons by securing subscriptions for, or by promoting or negotiating the issuance, transfer, distribution or sale of any stocks, bonds, notes, contracts, or other securities, of any kind or character, who shall, for the purpose of executing or attempting to execute, such scheme or artifice, commit any overt act within this state, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the penitentiary for not more than five years, or by both such fine and imprisonment, at the discretion of the court.

Sec. 7. If any person or persons mentioned in section six of this act, with intent to induce the purchase of any of the securities mentioned in section six of this act; or of any real estate situate outside of this state, shall knowingly or recklessly make any false statement, either oral or written, or knowingly or recklessly conceal any fact materially affecting the value of any such securities, or of such real estate, he or they shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine of not

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more than one thousand dollars, or by imprisonment in the penitentiary or county jail for not more than twelve months, or by both fine and imprisonment, at the discretion of the court; and shall be liable in damages to any party who has been occasioned loss thereby.

Sec. 8. Any person, whether as principal or agent, who shall knowingly make or file, or cause to be made or filed, any statement, circular, prospectus or other advertising matter required by this act, which is materially false, shall be guilty of a felony and subject to punishment as provided in section six hereof.

Sec. 9. Upon request of the auditor, the attorney general, or the prosecuting attorney having jurisdiction, shall direct and control any prosecution for violation of this act.

Sec. 10. No person or persons, mentioned in section six of this act, and operating within the scope of sections one and two of this act, shall make any amendments to his or their charter, articles of incorporation, constitution, or by-laws, or any other change materially affecting any statement or representation made in his

6 or their statement filed under section one hereof, unless he or they
7 first prepare and file with the auditor a duly verified supplemental
8 statement, setting forth clearly and concisely all material facts in
9 connection with the change, which said supplemental statement
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10 shall be subject in all respects to the provisions of section one here-
11 of in like manner as the original.

Sec. 11. Any person or persons mentioned in section six of
2 this act, and operating within the scope of sections one and two
3 of this act, may appoint one or more agents; but no agent shall
4 act, or attempt to act for or in behalf of his principal, until he
5 shall have first registered with the auditor as such agent, and for
6 each registration, such person or persons shall pay to said auditor
7 a registration fee of two dollars. Such registration shall authorize
8 the agent to represent such person or persons so registering him
9 until the first day of July following, unless the registration is
10 theretofore cancelled and recalled by such person or persons, or
11 by the auditor, for failure to comply with the provisions of this
12 act; authority for which revocation or cancellation is hereby given
13 to such person or persons and to said auditor.

Sec. 12. Every person or persons mentioned in section six
2 of this act, and operating within the scope of sections one and two
3 of this act, shall file as of the close of business on June thirtieth of
4 each year, and at such other times as may be required by the audi-
5 tor, a sworn statement in such forms as may be prescribed and fur-
6 nished by the auditor, setting forth his or their financial condition,
7 the amount of assets and liabilities, and such other information as
8 the auditor may require. Every regular statement of June thir-

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9 tieth shall be accompanied by a filing fee of two dollars; and if
10 such person or persons fail, neglect or refuse to file his or their
11 regular statement within fifteen days from said date, or to file any
12 other special report herein provided for within thirty days from
13 receipt of request therefor, then the right of such person or per-
14 sons to transact business in this state shall be deemed to be in
15 abeyance during the continuance of such delinquency.

Sec. 13. The auditor shall have general supervision and con-
2 trol over any person or persons mentioned in section six of this
3 act, residing or doing business in this state, engaged in securing
4 subscriptions for, or in the issuance, transfer, sale, promotion, ne-
5 gotiation or distribution of any speculative securities, and every
6 such person or persons shall be subject to examination by said au-

7 ditor, or by his duly authorized deputies at any time he may deem
8 it advisable. The rights, powers and privileges of the auditor in
9 making such examinations shall be the same as now provided with
10 reference to the examination of insurance companies by the insur-
11 ance commissioner; and such person or persons shall pay the ex-
12 pense of such examination, and their failure or refusal to pay
13 upon the demand of the auditor shall work a forfeiture of their
14 right to do business in the state.

Sec. 14. Any person or persons mentioned in section six of
2 this act, shall keep proper records and books of accounts in a busi-
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3 ness like and intelligent manner, which shall be open to the in-
4 pection of stockholders and investors in their stocks or securities.

Sec. 15. Whenever it shall appear to the auditor that any per-
2 son or persons who have complied with the provisions of this act
3 are insolvent, or are conducting their business in such manner as
4 to jeopardize the interests of creditors or investors, or whenever
5 they shall fail, neglect or refuse to file any circulars, papers, state-
6 ments, prospectuses, documents or other advertising matter or re-
7 ports, or to pay any of the fees required or provided for by this act,
8 without satisfactory reason therefor, the auditor may report the
9 facts to the attorney general, or to the prosecuting attorney hav-
10 ing jurisdiction, who shall at once make an investigation of the
11 case and institute such proceedings in law or in equity in the name
12 of the state, in any circuit court having jurisdiction as may be
13 appropriate to enforce the provisions of this act, and to protect
14 the interests of stock and bondholders and other creditors and in-
15 vestors. The jurisdiction of the circuit court shall extend to the
16 enforcement of any proper remedy now existing for the protection
17 of any creditor, stockholder, bondholder, or other person bene-
18 ficially interested, and the suit, action or proceeding may be
20 brought in any county in which any one or more of the parties re-
21 side, or in Kanawha county.

Sec. 16. Should the courts of this state declare any section
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2 or provision of this act unconstitutional or unauthorized, or in
3 conflict with any other sections or provisions of this act, then such
4 decision shall affect only the section or provision so declared to be
5 unconstitutional or unauthorized, and shall not affect any other
6 section or part of this act.

Sec. 17. All corporations, companies, associations, partner-
2 ships and individuals now holding the statement or license of the

3 auditor, under chapter fifteen, acts one thousand nine hundred and
4 thirteen, shall be deemed to have complied with the provisions of
5 this act.

Sec. 18. All expenses and fees herein provided for shall be col-
2 lected by the said auditor, and shall be accounted for and turned
3 into the state treasury, and the amount of the expenses and fees so
4 turned into the state treasury are hereby re-appropriated to the said
5 auditor for the purpose and in an amount sufficient to pay the cost
6 and expense of carrying this act into effect; and the said auditor is
7 hereby authorized to appoint an additional clerk, if the same shall
8 be found by him to be actually and absolutely necessary, to carry
9 this act into full force and effect. All money actually and neces-
10 sarily paid out, or expenses incurred by the said auditor, or any
11 clerk under his direction, under this act, shall be paid by the state
12 treasurer out of such sums for expenses and fees received under
13 this act, upon the state auditor's warrants, to be issued upon vouch-
14 ers containing an itemized account of the salaries or expenses for
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15 which the same are issued.

16 All expenses and fees which have been collected by the auditor
17 under the provisions of chapter fifteen of the acts of one thousand
18 nine hundred and thirteen, and now remaining in the state treas-
19 ury, are hereby appropriated to the said auditor for the purpose
20 of this act.

Sec. 19. "Person or persons" as used in this act, shall in-
2 clude any person, co-partnership, association, domestic corporation
3 or foreign corporation.

Sec. 20. Any person or persons violating any of the provis-
2 ions of the preceding sections of this act, for which no specific pen-
3 alty is provided, shall be fined not more than five hundred dollars,
4 or imprisoned in the county jail for not more than thirty days, or
5 both at the discretion of the court.

Sec. 21. This act shall take effect from date of passage.

Sec. 22. Chapter fifteen, of the acts of one thousand nine
2 hundred and thirteen, and all acts and parts of acts in conflic-
3 herewith, are hereby repealed.

Senate Bill No. 27

[BY MR. ROSENBLOOM.]

Introduced January 18, 1915. Referred to the Committee on the Judiciary. January 27, reported back with the recommendation that it do pass; rules suspended, taken up out of its order for immediate consideration, read a first time, and ordered to a second reading.

A BILL to regulate the manufacture and sale of oleomargarine, butterine and other similar products; to provide for license fees to be paid by manufacturers, and wholesale and retail dealers; for the manufacture or sale of oleomargarine, butterine or other similar products and to the manufacture and sale of oleomargarine, butterine or other products and to prevent and punish fraud and deception in such manufacture and sale; and to prescribe penalties and punishment for violations of this act, and the means and the method of procedure for its enforcement, and to regulate certain matters of evidence in such procedure.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That no person, firm or corporation shall, by himself, herself or themselves, or by his, her or their agent or servant, nor shall any officer, agent, servant or employe of any person, firm or corporation, manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine, buterine, or any similar substance, article, product or compound, made wholly or partly out of any fats, oils or oleaginous substance compound thereof and cream from the same,

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9 milk or cream produced from pure, unadulterated milk, or cream of the same, with or without coloring matter, unless such person, firm or corporation shall have first obtained a license and paid a license fee, as hereinafter provided; nor unless the said article, product or compound, so manufactured, shipped, consigned, offered for sale, exposed for sale, or had in possession with intent to sell; nor unless the same shall be kept and presented in a separate and distinct form, and in such manner as will advise the purchaser and consumer of its real character; nor unless such person, firm or corporation shall in all other respects comply with and observe the provisions of this act.

Sec. 2. Every person, firm or corporation, and every agent
2 of such persons, firm or coproation, desiring to manufacture,
3 sell or offer or expose for sale, or have in possession with intent
4 to sell, oleomargarine, butterine, or any similar substance, shall
5 make application for license so to do, in such form as shall be
6 prescribed by the department of agriculture, which application,
7 in addition to other matters which may be required to be stated
8 therein by said commissioner of agriculture, shall contain an
9 accurate description of the place where the proposed business is
10 intended to be carried on, and the name and style under which
11 it is proposed to conduct the said business. If the said appli-
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12 cation is satisfactory to the said commissioner of agriculture,
13 said name and style shall not, in the judgment of the commis-
14 sioner of agriculture, be calculated to deceive or mislead the
15 public as to the real nature of the business so proposed to be car-
16 ried on, he shall issue to the applicant or applicants a license
17 authorizing him, her or them to engage in the manufacture or
18 sale of oleomargarine, or butterine; for which said license the
19 applicant or applicants shall first pay, if a manufacturer, the
20 annual sum of one thousand dollars; and if a wholesaler the
21 annual sum of five hundred dollars; if a retailer, the annual sum
22 of two hundred dollars; and the said license fee when received
23 by the commissioner of agriculture or his agent shall be by him
24 immediately conveyed into the state treasury. Any person ex-
25 posing for sale, or having in possession with intent to sell, oleo-
26 margarine, butterine or any similar substance at any other place
27 than that designated in the application and license, shall be guilty
28 of a misdemeanor, and upon conviction, be fined not less than
29 one hundred dollars.

30 All licenses under this act shall expire on the thirtieth day
31 of June of each year, but licenses may be granted to commence
32 on the first day of any month for the remainder of a year, upon
33 the payment of a proportionate part of the annual license fee;
34 such licenses may be transferred by the commissioner of agri-

35 culture upon the application in writing of the person, firm or
36 corporation to which the same has been granted; *provided*, the
37 transfers shall comply with the regulations made by the said

38 commissioner of agriculture in regard to the said transfer, and
39 shall thereafter comply with the provisions of this act.

40 Wholesale dealers, within the meaning of this act, shall be
41 all persons, firms and corporations who shall sell to dealers, and
42 persons who shall buy to sell again, and all persons, firms and
43 corporations who make sales in quantities of ten pounds and over,
44 at any time. Retail dealers shall be all persons, firms and cor-
45 porations who shall sell in quantities less than ten pounds.

Sec. 3. After obtaining the license required by this act, the
2 person, firm or corporation obtaining the same shall, before be-
3 ginning any business under the said license, hang up and display,
4 in a conspicuous place, on the walls of the room or store in which
5 the oleomargarine, butterine or other similar substance is manu-
6 factured, sold or exposed for sale, the license so obtained as afore-
7 said; and shall also procure from the department of agriculture,
8 through the commissioner, a sign or signs which in number,
9 size and lettering shall be as the commissioner shall direct,
10 and which shall be uniform throughout the state, clearly in the
11 manufacture or sale of oleomargarine; which said sign or signs,
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12 when procured, shall be hung in a conspicuous place or
13 places on the walls of every room or store in which the oleomarg-
14 arine, butterine or other similar substance is manufactured, sold,
15 or exposed for sale.

Set. 4. Every licensed manufacturer of oleomargarine, but-
2 terine or other similar product and every licensed wholesale
3 dealer therein, shall keep a book in which shall be entered accu-
4 rately every sale and shipment of oleomargarine, butterine or
5 other similar substance, giving the date of the sale and shipment,
6 the place to which shipped, the quantity, the person whom sold
7 and shipped. Every licensed retail dealer in oleomargarine, but-
8 terine or similar substance shall keep an accurate account, in a
9 book open to the examination of the commissioner of agricul-
10 ture, his agents, attorneys and representatives, in which shall be
11 entered the date of the receipt of all purchases of oleomargarine,
12 butterine or any similar substance, made by such retail dealer;
13 stating therein where, when and from whom purchased, and the
14 quantity; and the said books, so to be kept by manufacturers and
15 wholesale dealers, shall be in such form as the commissioner of
16 agriculture shall direct.

Sec. 5. Every person, firm or corporation, and every officer,
2 agent, servant and employee of such person, firm or corporation,
3 who shall manufacture, sell or offer or expose for sale, or have

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4 in possession with intent to sell, oleomargarine, butterine, or any
5 similar substance, in violation of any of the provisions of this
6 act; or who shall sell oleomargarine, butterine, or other similar
7 substance, or who shall fail to keep a book, in accordance with
8 the last preceding section; or who shall, in any other respect,
9 violate any of the provisions of this act, shall for every such
10 offense forfeit and pay the sum of one hundred dollars, which
11 shall be recoverable, with the costs by any person suing in
12 the name of the state, as debts of like amount are by law re-
13 recoverable; and justices of the peace throughout this state
14 shall have jurisdiction to hear and determine all actions for
15 recovery of said penalties, with the right to either party to ap-
16 peal to the circuit court, as provided in existing laws in suits
17 for penalties. And all penalties and costs imposed and recovered
18 under the provisions of this act shall be paid to the commissioner
19 of agriculture, or his agent, and by him immediately conveyed
20 into the state treasury, to be paid out and used as hereinafter
21 provided.

Sec. 6. In addition to the above penalty, every person, firm
2 or corporation, and every officer, agent, servant or employee of
3 such person, firm or corporation, who violates any of the pro-
4 visions of this act shall also be guilty of a misdemeanor, and upon
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5 conviction thereof, shall be punished for the first offense by a
6 fine of not less than one hundred dollars, nor more than five
7 hundred dollars, or by imprisonment in the county jail for not
8 more than three months, or both, at the discretion of the court:
9 and upon conviction of any subsequent offense, shall be punished
10 by a fine of not less than five hundred dollars, and by imprison-
11 ment in the county jail for not less than six months nor more
12 than twelve months.

Sec. 7. In any proceeding under this act, either for the col-
2 lection of a penalty or a prosecution for a misdemeanor, the cer-
3 tificate of the commissioner of agriculture shall be accepted by
4 justices of the peace, and courts of record, as evidence of the
5 granting of license to manufacture or sell oleomargarine or but-

6 terine, or of the fact that no such license has been granted to
7 any particular person, firm or corporation.

Sec. 8. Whenever a suit for the collection of a penalty, under
2 the provision of this act, shall be appealed to any court of record,
3 or whenever any prosecution for a misdemeanor on account of
4 any violation of the provision of this act has been returned to
5 any court, it shall be lawful for the commissioner of agricul-
6 ture, his agents or attorneys, in case the person or persons who
7 have been sued for such penalty, or prosecuted for such misde-

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8 meanor, have since the commencement of such suit or prosecu-
9 tion again violated any of the provisions of this act, to apply
10 to the court having jurisdiction of such appeal or of such prose-
11 cution, or to any judge thereof, by petition, setting forth the facts,
12 and asking the said court to make an order commanding and
13 restraining the person so sued or prosecuted as aforesaid, from
14 further violating any of the provisions of this act until such time
15 as the said suit for penalty or the said prosecution shall have
16 been decided and determined; and, thereupon, the said court, or
17 any judge thereof, after such notice to such person or persons,
18 so sued or prosecuted as aforesaid, as to the said court or judge
19 may appear proper, and after inquiring into the facts alleged in
20 said petition, shall, if satisfied that any violation of the provision
21 of this act has been committed by such person or persons since
22 the commencement of said suit or prosecution, make an order
23 commanding and restraining the said person or persons from
24 any further violation of the provisions of this act until such time
25 as the said suit or prosecution shall have been decided and de-
26 termined; and in case upon final determination of said suit
27 or prosecution it shall appear that the said person or persons
28 has incurred the liability to payment of the penalty for which
29 suit had been brought or has been duly convicted of a misde-
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30 meanor in the prosecution so commenced as aforesaid, and the
31 said court or judge thereof shall make the aforesaid order, re-
32 straining the said person or persons from the further violation of
33 the provisions of this act, and the violation by any person or
34 prsons of any such restraining order of such court or judge,
35 whether the said restraining order shall be made during the
36 pendency of a suit for penalty or of a prosecution as above stated,

37 or after the final determination of such suit or prosecution in
38 the manner aforesaid, shall be punishable as a contempt of the
39 court so making the said order; and the said court is hereby
40 authorized to take such steps for the punishment of such contempt
41 as may by law be now taken for disregarding any injunction or
42 other order of the court of this state, sitting in equity and exer-
43 cising equity jurisdiction.

Sec. 9. The commissioner of agriculture shall be charged
2 with the enforcement of all the provisions of this act; but any
3 citizen of the state, having knowledge or information of the
4 violation of any of the provisions of this act, may, in the
5 name of the state, begin a suit for penalty or prosecution
6 for misdemeanor, in accordance with the provisions of this
7 act, and may prosecute to final judgment any such suit or prose-
8 cution, giving notice in writing, however, to the commissioner

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9 of agriculture of the commencement of such suit or prosecution
10 and the magistrate before whom commenced; and shall, in like
11 manner, report to the commissioner of agriculture each suc-
12 cessive step taken in such suit or prosecution; and each citizen
13 shall, upon complying with the provisions of this section, be
14 entitled to receive one-fourth of any penalty or fine which may
15 be recovered in such proceeding and paid to the commissioner
16 of agriculture, and immediately upon the receipt and conveyance
17 into the treasury of any such penalty or fine recovered and paid
18 in any proceeding commenced by a citizen as aforesaid the com-
19 missioner of agriculture shall pay the one-fourth thereof to the
20 said citizen, so commencing said proceeding and complying with
21 the provisions of this section. Such citizen shall also be entitled
22 to recover from the defendant his witness fees and other legal
23 costs as fixed by law, in said proceeding.

Sec. 10. The money paid into the treasury under the pro-
2 visions of this act shall constitute a special fund, for use of the
3 department of agriculture in enforcing this law; and may be
4 drawn out upon warrants signed by the commissioner of agri-
5 culture and approved by the auditor, subject, however, to the
6 payment to any citizen commencing and successfully prosecuting
7 a proceeding for any violation of this act under the last proceeding
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8 section, of one-fourth of the penalty or fine so recovered in such
9 proceeding and paid into the state treasury.

Sec. 11. The commissioner of agriculture, his assistants,
2 agents, experts, chemists, detectives and counsel, duly appointed
3 by him for the purpose, shall have full access, egress and ingress
4 to all places of business, factories, farms, buildings, carriages,
5 cars, vessels and cans, used in the manufacture, transportation
6 and sale of any dairy products, or of any adulteration or imita-
7 tion thereof; and shall also have power and authority to open
8 any package, can or vessel containing, or which may be supposed
9 to contain, oleomargarine, butterine or other similar substance,
10 or any adulteration which may be manufactured, sold or exposed
11 for sale in violation of any of the provisions of this act, or of
12 any act which may be hereafter enacted in relation to or the
13 adulteration or imitation thereof; and they shall also have power
14 to take from such package, can or vessel samples for analysis, upon
15 paying or tendering the value of such samples.

Sec. 12. The commissioner of agriculture shall publish a
2 semi-annual bulletin, and distribute the same in the same man-
3 ner as other bulletins of the department of agriculture are pub-
4 lished and distributed; which semi-annual bulletin shall contain
5 the name and address of every person, firm or corporation to

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6 whom a license has been issued for the manufacture or sale of
7 oleomargarine, butterine or other similar substance; and, also, a
8 tabulated statement of all the actions, civil or criminal, which
9 have been brought for the violations of this act, giving the name
10 and address of the defendant, and the disposition of every such
11 case.

Sec. 13. When a state license shall have been granted for
2 any specific place, and said license shall become void, for any rea-
3 son, a second license shall not be granted for the same location,
4 under any other name, within the fiscal year.

Sec. 14. All acts or parts of acts inconsistent with this act
2 are hereby repealed; but the repeal of said acts shall not in any
3 way interfere with, or prevent the prosecution to final termination
4 of any actions, civil or criminal, now pending, or which may
5 hereafter be commenced, for any violation of said acts which has
6 already been committed.

Senate Bill No. 167

[BY MR. McCrum.]

A BILL to amend and re-enact sections, six, fifteen, nineteen, twenty-one, twenty-three, twenty-five, twenty-six, thirty-one, thirty-four, forty-four, forty-five and fifty-six of chapter sixty-two of the code of one thousand nine hundred and thirteen, being serial sections 3454, 3473, 3477, 3478, 3480, 3482, 3486, 3491, 3494, 3504, 3508, 3509 and 3520 of said code, and to add thereto two sections, numbered fifty-a and fifty-b, all relating to the protection and preservation of certain animals, birds and fishes, forests and streams.

Be it enacted by the Legislature of West Virginia:

That sections six, fifteen, nineteen, twenty-one, twenty-three, twenty-five, twenty-six, thirty-one, thirty-four, forty-four, forty-five, and fifty-six of chapter sixty-two, of the code of one thousand nine hundred and thirteen, being respectively, serial sections 3555, 3473, 3477, 3478, 3480, 3482, 3486, 3491, 3494, 3504, 3508, 3509 and 3520 of said code, be amended and re-enacted and that sections fifty-a and fifty-b be added thereto so that said chapter will read as follows, to-

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wit:

Sec. 6. The forest, game and fish warden and the chief
2 deputy wardens, shall each, before entering upon the discharge of
3 their respective duties, execute a bond in the penalty of three
4 thousand five hundred dollars, with security therein to be ap-
5 proved by the governor, and conditioned for the faithful perform-
6 ance of their duties, and to account for and pay over all moneys
7 and property coming into their hands, due and belonging to the
8 state, and also conditioned according to the requirements of the
9 present law with reference to the carrying of revolvers, which said
10 bonds, after having been approved by the governor, shall be de-
11 posited with the auditor.

Sec. 15. The appointed deputy wardens shall, on the first
2 of the months of January, April, July and October of each year
3 make a report under oath to the forest, game and fish warden
4 which reports shall show in detail the work done by them sever-
5 ally during the three months next preceding. The forest, game
6 and fish warden shall furnish the deputy wardens all necessary
7 blank forms and stationery for making said reports. All such
8 reports shall show an account of the suits commenced, the justice

9 or court before whom such proceedings were had, the number and
10 kinds of game, fish, birds and property seized, and what disposi-
11 tion was made of the same, the amount of proceeds of sale, and
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12 the amount of money, if any, received by him for fines imposed,
13 or from any other source provided for by this chapter. All *ex of-*
14 *ficio* deputy wardens shall make a report to the forest, game and
15 fish warden on the first day of January, April, July and October
16 of each year if they have instituted any proceedings or collected
17 any moneys under the provisions of this chapter during such pre-
18 ceding three months, and all deputy wardens shall within thirty
19 days after its receipt pay over to the forest, game and fish war-
20 den the fines collected by him, and the bonds of all *ex officio* war-
21-22 dens shall be liable for any such moneys received by them. All
23 justices and clerks of circuit and criminal courts before whose
24 courts any case under this chapter comes shall on the first day of
25 January, April and October, of each year, if there has been
26 before this court any case under this chapter, report to the state
27 forest, game and fish warden all money collected by him and the
28 status of all cases pending or started in his court.

Sec. 19. No person, not a citizen of the United States of
2 America, shall, at any time hunt, pursue, kill or catch any wild
3 animals, or wild birds in this state, or have in his possession fire
4 arms of any kind for such purpose. No person shall, at any time,
5 hunt, pursue, kill or catch any wild animals, or wild birds in this
6 state, without first having secured a license so to do, and then
7 only during the respective periods when it shall be lawful to hunt

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8 such game animals and game birds. Such license shall be pro-
9 cured in the following manner, to-wit: The applicant shall go
10-20 before the clerk of the county court of the county and fill out a
21 blank application, stating his citizenship, name, age, occupation
22 or profession, weight, height, place and county of residence, color
23 of hair, eyes and complexion; the application shall be subscribed
24 in ink and sworn to by the applicant, that his statements are cor-
25 rect and true to the best of his knowledge and belief, before the
26 county clerk issuing said license; the applicant, if a non-resident
27 of this state, and a citizen of the United States of America, shall
28 pay to said county clerk the sum of sixteen dollars, as a license
29 tax; if the applicant is a *bona fide* resident of this state and a cit-
30 izen of the United States of America, he shall make application

21 to the clerk of the county court of the county of which he is such
22 *bona fide* resident, and shall pay to said clerk issuing such license
23 the sum of one dollar as a license tax, if he desires to hunt only
24 in such county, and if he desires to hunt in any other or all coun-
25 ties of this state, he shall pay to such clerk a license of two dol-
26 lars, whereupon the clerk shall issue him a hunter's license, enti-
27 tling him to hunt accordingly; *provided*, that such *bona fide* resi-
28 dent and citizen may fill out said application and sign and swear
29 to the same before a notary public or justice of the peace in the
30 county of his residence and send the same to the county clerk, to-
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31 gether with the amount of such license tax, and such clerk shall
32 send him such license. Said license shall be signed by said clerk,
33 and bear the seal of the county court of the county in which same
34 is issued, and shall bear a number according to the serial order in
35 which it was issued, and no fee shall be charged by the said clerk
36 for any services under this act. All such license taxes shall be paid
37 by the county clerk to the state treasurer on the first day of each
38 month for the next month preceding. No person to whom such
39 license has been issued, shall be entitled to hunt, pursue or kill
40 game in this state, unless at the time of such hunting, pursuing
41 or killing of game, he shall have such license in his actual posses-
42 sion; and he shall exhibit the same on demand, to any officer of
43 this state, or owner, tenant or lessee of any land on which he is
44 hunting. All such licenses shall be good and valid only until the
45 end of the calendar year in which the same were issued. At the
46 same time that such clerk issues such license to the applicant, he
47 shall also deliver to him a tag bearing in figures the same num-
48 ber as his said license, which tag shall, if the license be confined
49 to hunting in the county of the residence of the applicant, be red
50 color, and shall also bear the name of the county wherein it was
51 issued; and if such license be issued to a resident of the state, en-
52 titling him to hunt in any and all counties of the state, the same
53 shall be white in color, and bear in figures the same number as

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54 his license, and the name of the county wherein the same was
55 issued; and if such license be issued to a non-resident of the state,
56 the same shall be blue in color, and likewise bear the same num-
57 ber in figures as the license, and the name of the county wherein
58 the same was issued. The form of said license to be issued here-
60 under, and the said affidavits to be made by the applicant there-
61 for, and the tags hereinbefore required to be delivered to the ap-

62 plicant, shall be designed and supplied to the clerk by the state
63 forest game and fish warden, and such tags shall at all times be
64 worn prominently exhibited on the arm of the licensee while hunt-
65 ing under the authority of said license. The carrying of any un-
66 cased gun in any of the fields or woods of this state, by any per-
67 son not having the lawful right to hunt, pursue or kill game birds
68 or animals in such fields or woods, shall, as to such person, other
69 than the *bona fide* owner, or owners of such fields or woods, his
70 or their child or children, tenant or tenants, lessee or lessees, be
71 be deemed *prima facie* evidence of a violation of this section; and
72 any person claiming to hold a license to hunt in this state, hav-
73 ing in his possession any gun or other hunting paraphernalia in
74 such woods, or fields, shall, on failure to produce such license for
75 inspection to any warden of this state or owner or agent of the
76 owner of such woods and fields on demand, or upon failure to at
77 all times wear, as hereinbefore required, the said tag while in
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7

78 such woods or fields, shall be deemed guilty of a misdemeanor
79 and shall be punished on conviction, as provided later in this sec-
80 tion. *Provided, however,* that any resident owner of any lands
81 in this state, his resident child or children, or *bona fide* tenants,
82 shall have the right, without securing any such residence license,
83 to hunt, kill and pursue game birds or animals on such lands of
84 which he, or they, are the *bona fide* owners or tenants, during the
85 season when it is lawful to kill, catch or pursue such game birds
86 or animals. All non-resident members of any club or organiza-
87 tion owning or leasing a game preserve, in this state, shall be
88 required to secure a non-resident hunter's license. Any person
89 violating any of the provisions of this section, shall be deemed
90 guilty of a misdemanor, and upon conviction thereof, shall be
91 fined not less than twenty-five dollars nor more than fifty dollars
92 for each and every offense, and the costs of the prosecution, inclu-
92 for each and every offense, and the costs of the prosecution, includ-
93 ing a fee of ten dollars to the attorney prosecuting the case, and
95 not exceeding thirty days, in the discretion of the justice or court
96 trying the case, and upon failure to pay said fine and costs, the
97 person convicted shall be confined in the county jail until such
98 fine and costs are paid, but such imprisonment shall not exceed
99 twenty days for any one offense. No hunter's license shall be issued
100 to any minor under the age of fifteen years, without the consent

103 preserved.

Sec. 21. Any person who shall, at any time, alter or change
2 in any manner, or loan, sell or transfer to another any license or
3 tag provided for in this chapter, or any person who shall buy, or
4 borrow such license, or tag, shall be deemed guilty of a misde-
5 meanor and upon conviction thereof, shall be fined not less than
6 twenty nor more than fifty dollars and in addition thereto, may
7 be confined in the county jail not more than thirty days.

Sec. 23. For the purposes of this chapter, the following are
2 considered game animals, to-wit: Elk, deer, rabbits and squir-
3 rels. And the following shall be considered game birds, to-wit:
4 The anatadae, commonly known as ducks, geese, swan and brant;
5 the rallidae, commonly known as mud hens, rails, coots and gal-
6 linules; the limicolae, commonly known as shore birds, plover,
7 snipe, woodcock, tattlers, curlews, ortolan, sandpiper; and galli-
8 nae, commonly known as wild turkey, ruffed grouse or pheasant,
9 quail or bob white.

Sec. 25. No person shall hunt, chase, wound or kill any elk
2 in this state at any time for a period of eight years from and after
3 the passage of this act; *provided*, that the owner of any elk, which
4 shall be kept in any park or field, sufficiently inclosed to reason-
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5 ably prevent their escape therefrom, shall have the right to kill
6 any elk of his own; *provided, further*, that such owner may pur-
7 sue, recapture or kill any of his elk that may escape from his in-
8 closure. Any person violating any provision of this act shall be
9 guilty of a felony, and upon conviction thereof shall be confined
10 in the penitentiary not less than six months nor more than five
11 years.

12 No person shall hunt, chase, kill or wound any deer, from the
13 first day of December until the fifteenth day of October following,
14 of any year, except tame deer owned by the person killing the
15 same; nor shall any one person kill more than two deer in any
16 one season. No person or persons shall chase or hunt deer with
17 dogs in this state at any time. No person shall at any time kill
18 any fawn, doe or any other deer than bucks with horns or antlers
19 over four inches in length, or have the fresh skin of any doe or
20 fawn in his possession. No person shall at any time kill or have
21 in his possession, any deer, quail, pheasant or ruffed grouse, wild
22 turkey, squirrel, or any part of the same, or game, or game fishes,
101 in writing from the parent or guardian of such minor, such
102 consent to be filed with the clerk issuing such license and by him

23 with the intention of sending or transporting the same or having
24 the same sent or transported beyond the limits of this state. Any
25 person violating any provision of this section shall be guilty of a
26 misdemeanor, and on conviction thereof shall be fined not less
27 than twenty-five, nor more than fifty dollars, for each and every
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28 deer unlawfully hunted, chased, wounded or killed, and for each
29 doe or fawn's skin had in possession, and not less than twenty dol-
30 lars nor more than fifty dollars for each and every quail, ruffed
31 grouse or pheasant, wild turkey, or any part of the same, for each
32 and every game fish, and for each and every deer or part of a deer,
33 killed or had in possession with the intention of sending or trans-
34 porting the same, or having the same sent or transported beyond
35 the limits of this state. And in addition to the fine or fines pre-
36 scribed in this section, the person or persons convicted, may be
37 confined in the county jail not to exceed sixty days for each and
38 every offense; and upon default of the payment of the fine and
39 and costs, shall be confined in the county jail until the same are
40 paid, but not to exceed a period of sixty days.

Sec. 26. It shall be unlawful for any person to catch, kill
2 or injure, or pursue with the intent to catch, kill or injure, any
3 ruffed grouse or pheasant, or wild turkey between the first day of
4 December and the fifteenth day of October of the following year;
5 or any quail or Virginia partridge between the first day of De-
6 cember and the fifteenth day of November following. Nor shall
7 any one person kill more than twelve quail or six ruffed grouse
8 or two wild turkeys in any one day, nor more than ninety-six
9 quail or twenty-five ruffed grouse or six wild turkeys in any one
10 open season. No person shall kill any wild duck, goose or brant
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11 between the fifteenth day of January and the first day of Octo-
12 ber; *provided*, that the wood duck shall not be killed at any time
13 within this state; woodcock between the thirtieth day of Novem-
14 ber and the first day of October following; plover, ortalau or
15 sandpiper between the fifteenth day of December and the first
16 day of September following; rail between the thirtieth day of No-
17 vember and the first day of September following, or any snipe be-
18 tween the fifteenth day of December and the fifteenth day of Oc-
19 tober following: nor any gray, black, red or fox squirrel between
20 the first day of December, and the fifteenth day of September,
21 both inclusive, of the folowing year. Nor shall any person kill

22 more than twelve squirrel in any one day, nor more than one hun-
23 dred during any open season.

24 It shall be lawful for any person at any time and by any
25 means to catch, kill or pursue, with intent to catch or kill any
26 rabbit upon his own lands, or any lands upon which he may be an
27 actual *bona fide* tenant or resident, and also for the agent of the
28 owner or tenant of such land, to so hunt and kill any rabbit there-
29 on by the direction of such owner or tenant, that it shall be un-
30 lawful for any person otherwise than upon his own land, or the
31 land upon which he is a resident or tenant, or the agent of such
32 owner or tenant, by his direction, to catch, kill or injure, or pur-
33 sue with intent to catch, kill or injure any rabbit between the

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34 thirty-first day of December and the fifteenth day of October fol-
35 lowing.

36 It shall be unlawful for any person to catch, kill or injure by
37 means of a gun, snare, trap or poison any red fox, raccoon, mink
38 or skunk between the first day of January and the first day of No-
39 vember following; *provided, however*, that it shall be lawful for
40 any person at any time, by any means, to catch, kill or pursue,
41 any red fox, raccoon, mink or skunk upon his own lands, or any
42 lands upon which he may be an actual *bona fide* tenant or resi-
43 dent, and also for the agent of the owner or tenant of such land,
44 to so hunt and kill any red fox, raccoon, mink, or skunk thereon
45 by the direction of such owner or tenant, but it shall be unlawful
46 for any person at any time to set or maintain any snare or trap
47 upon the improved or enclosed lands of another without the ex-
48 press permission of the owner or tenant of such land, or at any
49 time to set or maintain any steel or spring bear trap upon any
50 lands not his own.

51 Any person violating any of the provisions of this section,
52-53 shall be guilty of a misdemeanor and upon conviction thereof,
54 shall be fined not less than twenty-five nor more than fifty dollars
55 for each offense, and in the discretion of the justice or court try-
56 ing the case, be imprisoned in the county jail for a period not ex-
57 ceeding thirty days for each offense. And the unlawful catching,
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58 killing or injuring of each and every wild game bird, or wild game
59 animal hereinbefore mentioned in this section, shall be deemed a
60 separate offense; and in default of the payment of the fine and
61 and costs, the person convicted shall be confined in the county jail
62 for a period not exceeding thirty days, unless such fine and costs

63 be sooner paid; *provided, however*, that the forest, game and fish
64 warden or deputy wardens, or other persons, under the direction
65 of the warden may capture by any means, any of the game birds
66 or game animals to keep them alive for propagation purposes. And
67 *provided, further*, that the warden may give written permission
68 to any responsible person, as provided by section thirty-eight of
69 this chapter.

Sec. 31. All moneys collected and due the state, under and
2 by virtue of the provisions of this chapter, shall be disposed of, as
3 follows: The net proceeds of all fines collected from convictions
4 of the violations of any section of this chapter, shall after the pay-
5-6 ment of the amounts fixed by this chapter to the proper
7 deputy wardens and the costs as provided by law, be paid into
8 and credited to the "school fund" of the state, as provided by the
9 constitution; all other moneys due the state by virtue of any of
10 the provisions of this chapter, as now amended, shall be paid into
11 the state treasury and credited to the "forest, game and fish pro-
12 tective fund," and the same shall be applicable to the payment of
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13 the expense of inaugurating, carrying out and maintaining any and
14 all of the purposes of this act set forth in this chapter as now
15 amended, and of any other law relating to the protection of forests
16 or the protection and propagation of game and fish, and shall be
17 paid out upon the requisition of the forest, game and fish war-
18 den, approved by the governor, for which purposes said fund is
19 hereby appropriated.

Sec. 34. No person, except the game warden, or his depu-
2 ties, by his direction, shall within the State of West Virginia wan-
3 tonly take or destroy, or attempt to so take or destroy the nest or
4 the eggs of any wild bird, except that of the English or European
5 house sparrow, owl, hawk, eagle, crow and the kingfisher, or have
6 such nest or eggs in his possession.

Sec. 44. It shall be unlawful for any person, not a citizen
2 of the United States of America or not a *bona fide* resident of this
3 state, to catch or destroy any of the fish in the creeks or rivers
4 of this state, or subject to the jurisdiction thereof, without first
5 having obtained a license so to do, and then only by the means
6 whereby and during the respective periods when it shall be lawful
7 so to do. Such license shall be procured in the following manner,
8 towit: The applicant shall go before the clerk of the county
9 court of some county of this state and fill out a blank application,
10 to be provided by the forest, game and fish warden, stating his

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11 name, age, occupation, weight, height, place of residence, and
12 color of hair, eyes and complexion; said application shall be sub-
13 scribed by the applicant in ink, and sworn to by the applicant be-
14 fore said clerk, and shall aver that his statements made therein
15 are true and correct to the best of his knowledge and belief; the
16 applicant shall thereupon pay to said county clerk the sum of five
17 dollars as a license tax. The said clerk shall thereupon issue to
18 such applicant a license of the form to be furnished by the said
19 warden, entitling such applicant to catch and take fish, according
20 to law, from any of the creeks or rivers in this state; *provided*,
21 *however*, that such applicant may fill out said application and sign
22 and swear to the same before some notary public or justice of the
23 peace of the county wherein such application is made and send
24 the same to said clerk, together with the amount of said license
25 tax, and such clerk shall send him such license. Such license
26 shall be signed by said clerk, and shall bear the seal of the county
27 court of the county in which the same is issued, and no fee shall
28 be charged therefor, by the said clerk. All such license taxes
29 shall be paid by the said clerk to the state treasurer on the first
30 day of each month for the month next preceding. No person to
31 whom such license has been issued shall exercise the privilege
32 thereby conferred without at the time having such license in his
33 actual possession, and he shall exhibit the same on demand to

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34 any officer of this state, or owner, tenant or lessee of any land
35 upon which such person is fishing; *provided, however*, that noth-
36 ing herein contained shall be construed to require the non-resi-
37 dent owner of any lands in this state, or his children, to obtain
38 such license in order to lawfully fish upon such lands.

39 It shall not be lawful for any person to catch or destroy any
40 of the fish in the creeks or rivers in this state by any other means
41 than hook and line, including a trot line having the hooks thereon
42 not less than two feet apart. It shall not be lawful for any person
43 to have in his possession, or to set and maintain anywhere in this
44 state, or on any waters subject to the jurisdiction thereof, any
45 seines, trap or device whereby fish may be taken or caught. Nor
46 shall it be lawful for any person to catch or have in his possession
47 any jack salmon, commonly called jack fish, or any white salmon
48 of less than seven inches in length, or any pike of less than ten
49 inches in length, or any black bass less than eight inches in length
50 or any trout less than six inches in length, or any fish caught out

51 of season or caught in any manner prohibited by law. And all
52 fish less than the length prescribed herein, shall be returned to
53 the water immediately with as little injury as possible.

54 And the measurement of fish shall be from the end of nose
55 to center fork of tail. It shall be unlawful to take or destroy
56 any jack salmon, (commonly called jack fish or white salmon) in
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57 any manner, between the first day of April and the first day of
58 July of each year; or to catch or destroy any trout or land-lock
59 salmon in any manner, between the first day of August and the
60 first day of April following. It shall not be lawful for any per-
61 son to catch any black bass, green bass, willow bass, rock bass, pike
62 or pickeral, or wall eyed-pike (commonly known as salmon) be-
63 tween the first day of April and the first day of July of each year.

64 It shall be unlawful to catch fish of the sucker variety known
65 as suckers, carp, mullet and red horse between the first day of
66 April and the first day of July.

67 It shall not be lawful for any person to catch or destroy fish in
68 any dam or pond the property of any person, except with the con-
69 sent of the owner of such dam or pond, unless such dam or pond be
70 in some of the rivers in this state. But nothing in this chapter
71 shall be so construed as to prevent the catching of minnows or
72 other small fish, except salmon, bass, shad and trout, by means of
73 hand, or cast nets, to be used for angling or scientific purposes;
74 nor to prevent the warden of the state or his deputies or any per-
75 son with their or his consent from catching any fish at any time
76 with nets or seines for the purpose of propagation or stocking
77 other waters, nor to prevent any person from taking in any way
78 fish from his private dam, spring or pond at any time.

79 Any person who shall knowingly and wilfully let the water
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80 out of any pond mentioned herein, with the intent to take or in-
81 jure fish therein, shall be guilty of a misdemeanor and shall be
82 be punished, upon conviction, by imprisonment in the county jail,
82a not less than one month nor more than six months or by fine
83 not less than fifty nor more than two hundred dollars, or by both
84 fine and imprisonment.

85 The owners or those in control of lands or rights in land, in
86 or bordering upon any pond designated in this act, shall have
87 erected and maintained in a conspicuous place along those ponds,
88-89 when they are unenclosed, a sign at least a foot square and which

90 shall have thereon the name of the party in control and the words
91 "Trespassers warned off under penalties of the law." Any per-
92 son who shall wilfully and wrongfully tear down, deface or in-
93 jure the boards provided for in this scection, shall be guilty of
94 a misdemeanor and liable to a penalty as hereinafter provided.

95 Any person violating any provision of this section, except as
96 otherwise herein provided, shall be guilty of a misdemeanor and
97 for every conviction thereof, shall be fined not less than ten dol-
98 lars nor more than one hundred dollars and may, at the discre-
99 tion of the court or justice trying the case, be confined in the
100 county jail not exceeding thirty days.

Sec. 45. It shall be lawful for any person at any time to re-
2 move or destroy any nets, traps or other devices placed in any
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3 creeks, runs or rivers within this state, and the person or per-
4 sons claiming ownership or possession of such nets, seines or
5 devices, shall have no recourse at law against the party destroy-
6 ing the same.

7 Any person violating any of the above provisions of this sec-
8 tion, shall be guilty of a misdemeanor and upon conviction there-
9 of, shall pay a fine of not less than ten dollars nor more than
10 fifty dollars or be confined in the jail not exceeding thirty days.

11 And no person, firm or corporation shall build, erect, keep
12 or maintain any dam or anything in any river, creek or water
12a course in this state, which shall in any way or man-
12b ner prevent or obstruct the full and easy passage of
12c fish up or down such river, creek or other water course
13 without placing, building and maintaining on such dam or other
14 thing, a good and sufficient ladder or way, so planned or built, as
15 to allow all fish to easily ascend or descend the same; and said
16 ladder or way shall be constructed upon plans and in a manner
17 and at a place satisfactory to the forest, game and fish warden of
18 the State of West Virginia. Any person, firm or corporation vio-
19 lating this provision shall be guilty of a misdemeanor and upon
20 conviction thereof, shall be fined not les than ten dollars nor more
21 than fifty dollars; and each week shall constitute a separate of-
22 fence; *provided*, that any person, firm or corporation now main-

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23 taining or keeping any such dam or other thing, shall be allowed
24 six months from the time this act shall take effect in which to
25 comply therewith.

26 And it shall be the special duty of said forest, game and fish
27 warden upon the information of the violation of this provision, to
28 immediately investigate the same, and cause this provision to be
29 fully carried out.

Sec. 50-a. From and after the time this act shall take effect
2 a reward or bounty shall be paid out of the forest, fish and game
3 protective fund created by this act, for the killing within this
4 state only of the following predatory birds, to-wit: For each
5 hawk, except the sparrow or mouse hawk, the sum of twenty-five
6 cents, for each great horned owl, the sum of twenty-five cents,
7 and for each crow, the sum of ten cents; the payment of such re-
8 ward or bounty may be obtained by the person killing any such
9 bird in the following manner and not otherwise: He should pro-
10 duce such killed bird within thirty days from the killing thereof
11 before a justice of the peace of the county in which such bird was
12 killed, and make an affidavit before such justice that he killed the
13 same, stating clearly the time and place of such killing and that
14 such place was within the State of West Virginia. Upon the
15 production of such bird, and the making of such affidavit, the said
16 justice shall, in the presence of the party making such affidavit
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17 and at least one reputable witness residing in said county, cut off
18 the head of such bird and destroy the same by burning; and he
19 shall not charge any fee for any service required of him thereby;
20 upon the destruction of such head said justice shall endorse upon
21 the said affidavit and sign a certificate of such fact, and deliver
22 said affidavit to the affiant, who shall present or mail the same to
23 the forest, fish and game warden, and he shall thereupon deliver
24 or mail to said affiant a check for the amount of the said bounty
25 or reward, and charge the same against the fund out of which
26 said bounty or reward is hereby made payable; *provided, however,*
27 that not more than ten per cent of the amount derived from the
28 license taxes collected in any one calendar year under the provi-
29 sions of this act shall be applicable to the payment of such boun-
30 ties or rewards claimed during the succeeding calendar year, and
31 in the event the amount of such bounties or rewards so claimed in
32 any calendar year should equal in the aggregate such ten per cent-
33 um of such license taxes, the game warden shall immediately
34 thereupon give notice of such fact in two papers representing two
35 different political parties published at the seat of government, and
36 thereafter no further bounties or rewards for any such birds killed
37 during such calendar year shall be paid; and all claims for boun-

38 ties or rewards made as aforesaid, shall be paid in the order in
39 which they are received by the forest, game and fish warden.

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40 Any person who shall make any false statement in such affi-
41 davit, or who shall claim such reward or bounty for any such bird
42 not killed within the State of West Virginia, shall be deemed
43 guilty of a misdemeanor, and upon conviction thereof, shall be
44 fined not less than twenty-five nor more than one hundred dollars,
45 and at the discretion of the court of justice trying the case, may
46 be confined in the county jail not exceeding thirty days, and any
47 justice falsely making any such certificate, as hereinbefore re-
48 quired, shall be deemed guilty of a misdemeanor, and upon convic-
49 tion thereof, shall be fined not less than fifty nor more than two
50 hundred dollars, and at the discretion of the court trying the case
51 may be confined in the county jail not exceeding sixty days.

Sec. 50-b. From and after the time that this act takes ef-
2 feet there shall be a perpetual closed season for game of all kinds,
3 and wild birds found upon such tracts of land in this state as may
4 be set apart by the forest, game and fish warden as sanctuaries
5 or refuges for game of all kinds, and wild birds, under the pro-
6 visions of this act, provided, the said tracts of land, if wild or un-
7 improved land, shall be surrounded by a well defined fire line or
8 cleared strip of land, and by at least one wire extending around
9 the boundary thereof, and whether it be such wild land, or im-
10 proved or cultivated land, the same shall be surrounded with no-
11 tices, reading: "State Game Refuge: Hunting Is Unlawful",
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12 posted on said boundary at conspicuous places; and *provided, fur-*
13 *ther,* that the combined area of such tracts of land in any one
14 county shall not exceed ten thousand acres; and for the purpose
15 of creating such state game sanctuaries or refuges, the forest,
16 game and fish warden is authorized to secure supervisory control
17 of any tracts of land which he may deem suitable for such pur-
18 pose, and to prohibit all hunting thereon, and provide for the
19 placing of game and wild birds thereon for the purpose of breed-
20 ing and propagating the same, and protecting them from injury
21 or molestation from any person, or predatory animal or bird.

22 Any person who shall by any means hunt, kill, injure, dis-
23 turb or molest any game or wild birds found upon such tract of
24 land otherwise than by the direction of the forest, fish and game
25 warden for the purpose of destroying such predatory animal or
26 bird as is not protected by this chapter, shall be deemed guilty

27 of a misdemeanor, and upon conviction thereof, shall be fined not
 28 less than twenty-five nor more than one hundred dollars, and at
 29 the discretion of the court or justice trying the case, may be im-
 30 prisoned in the county jail not exceeding thirty days

Sec. 51. It shall be unlawful for any person, firm or cor-
 2 poration to throw in or allow to enter any stream or water course
 3 saw dust or other deleterious matter that will hinder or materially
 4 interfere with the propagation of fish. But nothing contained in

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5 this act shall be so construed as to prevent the owner or opera-
 6 tor of coal mines, and other industrial plants, from draining the
 7 water from their said mines, coal washeries and plants into the
 8 stream or streams adjacent to such mines, coal washeries and other
 9 plants which authority is hereby given.

10 Any person, firm or corporation violating any of the provis-
 11 ions of this section, shall be guilty of a misdemeanor, and fined
 12 not less than twenty-five dollars nor more than one hundred dol-
 13 lars for each and every such offense.

Senate Bill No. 97

[BY MR. GREGORY.]

Introduced January 19, 1915. Referred to the Committee on
 Labor. January 26, reported back with the recommendation that it
 do pass; January 29, taken up in regular order, read a first time
 and ordered to a second reading.

A BILL to amend and re-enact chapter fifty-nine of the acts of the
 Legislature, session of one thousand eight hundred and eighty-
 two, (chapter fifty-nine of the code of one thousand nine hundred
 and thirteen) providing for the establishment of standard weights
 and measures, and for the inspection and sealing of devices used
 for weighing and measuring commodities.

Be it enacted by the Legislature of West Virginia:

That Chapter fifty-nine of the acts of the session of the year one
 thousand eight hundred and eighty-two, and all the sections of said
 chapter, be amended so as to read as follows:

Weights and Measures.

Sec. 1. The weights and measures received from the United

2 States under a resolution of congress, approved June fourteenth,
3 one thousand eight hundred and thirty-six, and such new weights
4 and measures as shall be received from the United States as
5 standard weights and measures in addition thereto or in renewal
6 thereof, and such as shall be supplied by the state in conformity
7 therewith and certified by the national bureau of standards, shall
8 be the state standards of weights and measures. Said state

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9 standards may be kept at the state university in its physical
10 laboratory, or elsewhere, at the discretion of the state commis-
11 sioner of Labor, who shall be *ex officio* commissioner of weights
12 and measures.

Sec. 2. In addition to the state standard of weights and
2 measures provided for in this act, there shall be supplied by the
3 state at least one complete set of copies of these standards, to
4 be known as office standards; and such other weights, measures
5 and apparatus as may be found necessary to carry out the provi-
6 sions of this act, to be known as working standards. Such weights,
7 measures and apparatus shall be verified by the state commis-
8 sioner, or his deputy or inspectors, at his discretion, upon the
9 initial receipt of such weights, measures and apparatus and at
10 least once in each year thereafter, the office standards by direct
11 comparison with the state standards, the working standards by
12 comparison with the office standards. When found accurate upon
13 these tests the office and working standards shall be sealed by
14 stamping on them the letters "W. V." and the last two figures of
15 the year with seals which the state commissioner shall have and
16 keep for that purpose. The office standards shall be used in
17 making all comparisons of weights, measures and weighing and
18 measuring devices submitted for test in the office of the commis-
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19 sioner; and the state standards shall be used only in verifying the
20 office standards and for scientific purposes.

Sec. 3. The state commissioner of labor shall be *ex officio*
2 commissioner of weights and measures, and he shall be authorized
3 to appoint and fix the salaries of such deputies and inspectors
4 not to exceed two in number, to carry out the purpose of this
5 act, within the limits of such appropriations as may be made by
6 the legislature for the maintenance of the work of the state bureau
7 of labor; *provided*, the salaries of such deputies or inspectors

8 shall not exceed one thousand and two hundred dollars per an-
9 num.

Sec. 4. The state commissioner of labor shall forthwith, on
2 his appointment, give a bond in the penal sum of five thousand
3 dollars, with sureties, to be approved by the attorney general for
4 the faithful performance of the duties of his office as state com-
5 missioner of weights and measures, and for the safe keeping of
6 the standards entrusted to his care and for the surrender thereof
7 immediately to his successor in office or to the person appointed
8 by the governor to receive them.

Sec. 5. The commissioner of weights and measures shall
2 take charge of the standards adopted by this act as the standards
3 of the state, and cause them to be kept in a safe and suitable
4 place, from which they shall not be removed except for repairs or
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5 certification, and he shall take all other necessary precautions for
6 their safe keeping. He shall maintain the state standards in good
7 order and shall submit them at least once in ten years to the na-
8 tional bureau of standards for certification. He shall keep a com-
9 plete record of the standards, balances, and other apparatus be-
10 longing to the state, and take a receipt for same from his suc-
11 cessor in office. He shall annually, on the first day of January,
12 make to the governor a report of all work done by his office.

13 The director of the physical laboratory of the West Virginia
14 university shall, by virtue of his appointment to that position by
15 the state board of regents, become the assistant commissioner of
16 weight and measures. It shall be his duty, upon the request
17 of the commissioners, to make or cause to be made at said
18 physical laboratory all such tests, calibrations and determinations
19 as may be necessary for the carrying out of this act.

Sec. 6. In the exercise of his powers and the performance
2 of his duties under this act, the commissioner of weights and
3 measures shall have the power to administer oaths and issue sub-
4 poenas to compel the attendance of witnesses, and the production
5 of books, papers, accounts and documents. In case of disobedi-
6 ence on the part of any person or persons to comply with any
7 proper order of the commissioner, or any subpoena issued in be-
8 half of said commissioner, or on the refusal of any witness to
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9 testify with reference to any matters upon which such witness may

10 be lawfully interrogated, it shall be the duty of the circuit
11 court of any circuit, upon application of the commissioner, to com-
12 pel obedience by attachment proceedings for contempt, as in the
13 case of disobedience of the requirements of a subpoena issued from
14 two years, and shall keep a record of the same. He, or his deputy,
15 or inspectors, at his direction, shall at least once in two years
16 visit these cities and counties for the purpose, and in order to

Sec. 7. The commissioner of weights and measures, or his
2 assistant commissioner, deputies or inspectors, at his direction,
3 shall at least once in five years try and prove by the office standards
4 all standard weights, measures and other apparatus which may
5 belong to any county or city, required to appoint a sealer and to
6 purchase and keep standards of weights and measures by the pro-
10 pose.

14 such court or a refusal to testify therein.

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18 such duties they may inspect the weights, measures, balances or
19 any other weighing or measuring appliances of any person, and
20 shall have the same powers as the local sealer of weights and meas-
21 ures. The commissioner shall issue from time to time regula-
22 tions for the guidance of county and city sealers, and the said
23 regulations shall govern the procedure to be followed by the afore-
24 said officers in the discharge of their duties.

Sec. 8. The state commissioner of weights and measures
2 shall have and keep a general supervision of the weights and meas-
3 ures, and weighing or measuring devices offered for sale, sold, or
4 in use in the state. He or his assistant commissioners, deputies
5 or inspectors, at his direction shall, upon the written request of any
6 citizen, firm or corporation, or educational institution in the state,
7 test or calibrate weights, measures and weighing or measuring de-
8 vices used as standards in the state. He, or his assistant com-
9 missioner, deputies, or inspectors, at his direction, shall at least
10 once annually test all scales, weights and measures used in check-
11 ing the receipts or disbursements of supplies in every institution
12 for the maintenance of which moneys are appropriated by the
13 legislature, and he shall report, in writing, his findings to the
14 state board of control and to the executive officer of the institu-
15 tion concerned; and, at the request of such board or executive offi-
16 cer, the commissioner of weights and measures shall appoint, in
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17 writing, one or more employes then in the actual service of the in-

stitution who shall act as special deputies for the purpose of checking the receipts and disbursements of supplies.

Sec. 9. The state commissioner shall have the power, and it shall be his duty, either personally or by deputy or through the agency of a county or city sealer of weights and measures, to inspect, test, try and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered or exposed for sale, sold, or used or employed by any proprietor, agent, lessee, or employe in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased, or offered or submitted by such person or persons for sale, hire, or award; and he shall have the power to and shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind kept for that purpose of sale, offered or exposed for sale, or sold or in the process of delivery, in order to determine whether the same contain the amount represented, and whether they be offered for sale or sold in a manner in accordance with law. He shall at least twice a year, and as much oftener as he may deem necessary, see that all weights, measures, and weighing or measuring devices are correct. He and his authorized deputies may for the purpose above mentioned, and in the general performance of

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their official duties, enter and go into or upon, and without formal warrant, any stand, place, building, or premises, or stop any dealer whatsoever, and require him, if necessary, to proceed to some place which the state commissioner may specify, for the purpose of making the proper tests. Whenever the state commissioner finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

Sec. 10. Whenever the state commissioner compares weights, measures, or weighing or measuring instruments and finds that they correspond or causes them to correspond with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring instruments with appropriate devices.

Sec. 11. The state commissioner shall condemn and seize and may destroy incorrect weights, measures or weighing or measuring devices which, in his best judgment, are not susceptible of satisfactory repair: but such as are incorrect and yet may be repaired, he shall mark or tag as "condemned for repairs." The

6 owner or users of any weights, measures, or weighing or meas-
7 uring devices of which such disposition is made, shall have the
8 same repaired or corrected within ten days, and said owner or
9 users may neither use or dispose of the same in any way, but
10 shall hold the same at the disposal of the commissioner. Any
11 weights, measures, or weighing or measuring devices which have
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12 not been repaired as required above, shall be confiscated by the
13 commissioner.

Sec. 12. The powers and duties given to and imposed upon
2 the state commissioner of weights and measures by sections six,
3 nine, ten and eleven, are hereby given to and imposed upon his
4 deputies and inspectors also, when acting under his instruc-
5 tions and at his directions.

Sec. 13. Except in counties where the county commission-
2 ers shall appoint a sealer of weights and measures, as hereinafter
3 provided, the sheriff of the county shall be *ex-officio* county sealer
4 of weights and measures in each county; and no fee shall be
5 charged by him or by the county for the inspection, testing,
6 or sealing, or the repairing or adjusting of weights, measures, or
7 weighing or measuring devices. Whenever the county commis-
8 sioners of any county shall deem it necessary, they may appoint
9 and fix the salary of one sealer and one or more deputy sealers
10 of weights and measures. Such sealer or deputies, when not ap-
11 pointed merely for some temporary purpose, shall hold office for
12 a term of four years from the date of their appointment, and all
13 deputies shall have the same power and may perform the same
14 duties as the county sealer when acting under his instructions
15 and at his direction.

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Sec. 14. There shall be a city sealer of weights and meas-
2 ures in cities of not less than twenty-five thousand population, ac-
3 cording to the latest official state or United States census, to be
4 appointed by the mayor from a list to be furnished by the civil
5 service board, and under the rules of such board where such board
6 exists; otherwise, he shall be appointed by the mayor, by and with
7 the advice and consent of the common council, for a term of four
8 years. He shall be paid a salary to be determined by the common
9 council, and no fee shall be charged by him or by the city for the
10 inspecting, testing or sealing, or the repairing or adjusting of

11 weights, measures, or weighing, or measuring devices. Whenever
12 the mayor and common council of cities of not less than thirty-
13 five thousand population shall deem it necessary, one or more
14 deputy sealers of weights and measures may be appointed, and
15 their salaries fixed as above, who, when not appointed merely
16 for some temporary purpose, shall hold office for a term of
17 four years from the date of their appointment. All deputies ap-
18 pointed shall have the same powers and perform the same duties
19 as the city sealer, when acting under his instructions and his di-
20 rections. In those cities in which no sealer is required by the
21 above, the county sealer of the county shall perform in said cities
22 the duties, and have like powers as in the county.

Sec. 15. Nothing in sections thirteen and fourteen of this
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2 act shall be construed to prevent two or more counties, or a county
3 and any city therein, from combining the whole or part of their
4 districts, as may be agreed upon by the county commissioners
5 of the counties, or such county commissioners and the mayor
6 and common council of the city employing one set of standards
7 and one sealer, upon the written consent of the state commis-
8 sioner of weights and measures. A county sealer or city sealer
9 appointed in pursuance of an agreement for such combination
10 shall, subject to the terms of his appointment, have the same
11 authority, jurisdiction, and duties as if he had been appointed by
12 each of the authorities who are parties to the agreement.

Sec. 16. Any official bond given by a sheriff as to duties to
2 be performed on or after the first day of July, one thousand nine
3 hundred and fifteen, shall, whether so stipulated therein or not,
4 extend to and cover his official acts as county sealer of weights and
5 measures the same in all respects as a bond given him to cover
6 the same specifically. Each county sealer of weights and meas-
7 ures under the provisions of section twelve of this act, and each
8 city sealer of weights and measures required to be appointed by
9 the provisions of section thirteen of this act, shall, forthwith on
10 his appointment, give a bond in the penal sum of one thousand
11 dollars, with sureties to be approved by the appointing power,
12 for the faithful performance of the duties of his office.

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Sec. 17. The county commissioners of each county and
2 the common council of each city required to appoint a sealer

3 under the provisions of this act, shall procure at the expense of the
4 county or city, and shall keep at all times, a set of weights and
5 measures and other apparatus as complete and of such material
6 and construction as the state commissioner of weights and meas-
7 ures may direct. All such weights, measures, and other apparatus
8 having been tried and accurately proven by the state commis-
9 sioner shall be sealed and certified to by him as hereinbefore pro-
10 vided, and shall then be deposited with and preserved by the
11 county or city sealer as public standards for such county or city.
12 Whenever the county commissioners of such county or the
13 common council of such city shall neglect for six months so to do,
14 the county clerk of said county, or the city clerk or recorder
15 of said city on notification and request by the commissioner of
16 weights and measures, shall provide such standards, and cause
17 the same to be tried, sealed and deposited at the expense of the
17 county or city.

Sec. 18. The inspector of mines of each inspection dis-
2 trict shall be *ex-officio* a sealer of weights and measures within
3 all the territory covered by his district, and shall have with re-
4 spect to the testing and proving of devices used for weighing and
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5 measuring coal, all the powers, and shall perform all the duties
6 granted to and imposed upon county and city sealers of weights
7 and measures. Each inspector of mines shall keep a record of all
8 of his official acts as sealer of weights and measures, and he
9 shall make an annual report of such acts, duly sworn to, on the
10 first day of November, to the state commissioner of weights and
11 measures on blanks furnished by the commissioner.

Sec. 19. Where not otherwise provided by law, the county
2 or city sealer shall have the same powers and shall perform the
3 same duties within his county or city as are granted to and im-
4 posed upon the state commissioner of weights and measures provid-
5 ed for in sections nine, ten and eleven of this act.

Sec. 20. The county or city sealer shall keep a complete
2 record of all his official acts, and shall make an annual report,
3 duly sworn to, on the first day of November, to the state com-
4 missioner of weights and measures, on blanks furnished by the
5 commissioner.

Sec. 21. The commissoiner of weights and measures, his
2 assistant commissioner, deputies and inspectors, and the county and

3 city sealers and deputy sealers of weights and measures, are here-
4 by made special policemen, and are authorized and empowered
5 to arrest any violator of the statutes in relation to weights and

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6 measures, and to seize for use as evidence, any false or unsealed
7 weight, measure of weighing and measuring device or package,
8 or amount of commodity found to be used, retained, or offered
9 for or exposed for sale or sold in violation of law.

Sec. 22. Any person who shall hinder or obstruct in any
2 way the commissioner of weights and measures, his deputy, or
3 inspectors, or any county or city sealer or deputy sealer of weights
4 and measures, in the performance of his official duty shall be
5 guilty of a misdemeanor, and, upon conviction thereof in any
6 court of competent jurisdiction, shall be punished by a fine of
7 not less than fifty dollars, or by imprisonment in the county jail
8 for not more than three months; or by both such fine and im-
9 prisonment.

Sec. 23. Any person who shall impersonate in any way
2 the commissioner of weight and measures, his deputy, or in-
3 spectors, or any county or city sealer or deputy sealer of weights
4 and measures, by the use of his seal, or counterfeit of his seal,
5 or otherwise, shall be guilty of a misdemeanor, and upon con-
6 viction thereof, in any court of competent jurisdiction, shall be
7 punished by a fine or not less than one hundred dollars nor more
8 than five hundred dollars, or by imprisonment for not more than
9 one year, or by both such fine and imprisonment.

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Sec. 24. It shall be unlawful to sell or offer to sell any
2 coal, coke or charcoal in any other manner than by weight. It
3 shall be unlawful for any person to deliver any coal, coke, or
4 charcoal without each such delivery being accompanied by a
5 delivery ticket and a duplicate thereof, on each of which shall
6 be in ink or other indelible substance, distinctly expressed in
7 pounds, the gross weight of the load, the fare of the delivery
8 vehicle, and the quantity or quantities of coal, coke or charcoal
9 contained in the vehicle used in such delivery, with the name of
10 the purchaser thereof, and the name of the dealer from whom
11 purchased. One of these tickets shall be surrendered to the state
12 commissioner, his deputy, or inspectors, or a county or city seal-
13 er or deputy sealer, in weights and measures, upon his demand

14 for his inspection, and this ticket or a weight slip issued by
15 him, when he desires to retain the original, shall be delivered
16 to the said purchaser of said coal, coke, or charcoal, or his agent
17 or representative at the time of the delivery of the fuel; and the
18 other ticket shall be retained by the seller of the fuel. When the
19 buyer carries away the purchase, a delivery ticket showing the
20 actual number of pounds delivered to him must be given to him
21 at the time the sale is made; *provided, however*, that the provisions
22 of this section shall not apply except in cities of a population
23 of five thousand or more.

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Sec. 25. It shall be unlawful to keep for the purpose of
2 sale, offer or expose for sale, or sell any commodity in pack-
3 age form, unless the net quantity of the contents be plainly and
4 conspicuously marked on the outside of the package, in terms of
5 weights, measures, or numerical count; *provided, however*, that
6 reasonable variations or tolerances and also exemptions as to
7 small packages shall be established by rules and regulations made
8 by the commissioner of weights and measures; and, *provided*,
9 *further*, that this section shall not be construed to apply to those
10 commodities in packages from the manner of sale of which is
11 specifically regulated by the provisions of other sections of this
12 act.

13 The word "package," as used in this section, shall be con-
14 strued to include the package, carton, case, can, box, barrel, bottle,
15 phial, or other receptacle put up by the manufacturer; or when
16 put up prior to the order of the commodity, by the vendor; which
17 may be labeled, branded, or stenciled or otherwise marked, or
18 which may be suitable for labeling, branding, or stenciling, or
19 marking otherwise, making one complete package of the com-
20 modity.. The word "package" shall be construed to include
21 both the wholesale and the retail package.

Sec. 26. It shall be unlawful to keep for the purpose of
2 sale, offer or expose for sale, or sell any commodity composed in
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3 whole or in part of cotton, wool, linen, or silk, or any other
4 textile material on a spool or similar holder, or in a container
5 or band, or in a bolt or roll, or in a ball, coil, or skein, or
6 in any similar manner, unless the net amount of the commodity in
7 terms of weight, or measure shall be definitely, plainly and con-

8 spicuously marked on the principal label, if there be such a
9 label, otherwise on a wrapper, band or tag attached thereto.
10 The word "spool or similar holder, container or band, bolt or roll
11 or ball coil, or skein" shall be construed to include the spool
12 or similar holder, container or band, bolt or coil, or ball or roll,
13 or skein put up by the manufacturer; or when put up prior
13 to the order of the community, by the vendor. It shall be held to
14 include both the wholesale and the retail package.

Sec. 27. It shall be unlawful for any person to sell or
2 offer for sale any butter, or renovated, or process butter, or oleo-
3 margarine in any other manner than by weight. Whenever such
4 butter, renovated or process butter, or oleomargarine, is sold, of-
5 fered or exposed for sale in the form of prints, bricks or rolls, each
6 pint, brick or roll shall bear a definite, plain and conspicuous
7 statement of its true net weight, on the principal label, where
8 there be such a label, otherwise on the outside wrapper of said
9 print, brick or roll. When such statement is made part of the

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10 printed matter on the label, wrapper or carton of any such print,
11 brick or roll, the statement as to net weight shall be in Gothic
12 type not less than one-quarter inch square.

13 The prints, bricks or rolls referred to in this section shall
14 be construed to include those prints, bricks, or rolls put up by the
15 manufacturer or producer; or when put up prior to the order
16 of the commodity, by the vendor; *provided*, however, this section
17 shall not apply to farmers who manufacture and sell their own
18 butter.

Sec. 28. Bottles used for the sale of milk or cream shall
2 be of the capacity of one-half ($\frac{1}{2}$) gallon, three (3) pints, one
3 (1) quart, one (1) pint, one-half ($\frac{1}{2}$) pint, and one (1) gill,
4 when filled to within one-fourth inch of the cap seat or stopple;
4 in the case of those bottles having an inside diameter immediate-
5 ly below this cap seat or stopple of not over two inches; or when
6 filled to within one-eighth inch of the cap seat or stopple in the case
7 of those having an inside diameter immediately below this cap
8 seat or stopple of over two inches. The following variations
9 on individual bottles or jars may be allowed, but the average
10 content of not less than twenty-five bottles selected at random
11 from at least four times the number tested must not be error by
12 more than one-quarter ($\frac{1}{4}$) of these tolerances; six drams above

13 and six drams below on the half gallon; five drams above and
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14 five drams below on the three pint; four drams above and four
15 drams below on the quart; three drams above and three drams be-
16 low on the pint; two drams above and two drams below on
17 the half-pint; two drams above and two drams below on the gill.
18 Bottles or jars used for the sale of milk or cream shall have
19 clearly blown or otherwise permanently marked in the side of the
20 bottle, the capacity of the bottle and the word "sealed"; and
21 the side or bottom of the bottle the name, initial, or trademark of
22 the manufacturer, and a designating number, which designating
23 number shall be different for each manufacturer, and may be
24 used in identifying the bottles. The designating number meas-
25 ures upon application by the manufacturer, and upon the filing
26 by the manufacturer of a bond in the sum of one thousand dol-
27 lars with sureties to be approved by the attorney general condi-
28 tioned upon their conformance with the requirements of this
29 section. A record of the bonds furnished, and the designating
30 numbers and to whom furnished shall be kept in the office of the
31 commissioners of weightss and measurers.

32 Any manufacturer who sells or offers to sell milk or cream
33 bottles to be used in this state that do not comply as to size
34 and markings with the provisions of this section shall suffer a
35 penalty of five hundred dollars, to be recovered by the attorney
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36 general in an action against the defender's bondsmen to be brought
37 in the name of the state of West Virginia. Any dealer who pur-
38 chases, for the purpose of selling milk or cream, jars or bottles
39 after this law takes effect that do not comply with the require-
40 ments of this section as to markings and capacity, shall be deemed
41 guilty of using a false and insufficient measure.

42 Sealers of weights and measures are not required to seal
43 bottles or jars for milk or cream marked as in this section pro-
44 vided, but they shall have the power to and shall from time to
45 time make tests on individual bottles used by various firms in the
46 territory over which they have jurisdiction, in order to ascertain
47 if the above provisions are being complied with, and they shall
48 immediately report violations found to the state commissioner of
49 weights and measurers. *Provided, however,* that this section
50 shall not apply except to farmers and dairymen who own and milk

51 ten or more cows.

Sec. 29. The standard barrel for fruits, vegetables and
2 produce shall be of the following dimensions when measured with-
3 out distension of its parts: Diameter of head inside and staves,
4 seventeen and one-eighth ($17 \frac{1}{8}$) inches; distance between heads,
5 inside measurements, twenty-six (26) inches: the outside bilge
6 or circumference not less than sixty-four (64) inches; and the
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7 thickness of staves not more than four-tenths (4-10) of an inch;
8 *Provided*, that any barrel of a different form having the same dis-
9 tance between heads and a capacity of seven thousand and fifty-
10 six (7056) cubic inches shall be a standard barrel.

Sec. 30. A bushel of the respective articles hereinafter men-
2 tioned shall be the amount of weight, avoirdupois, viz:—

3 Apples (green) .....	.50
4 Apples (dried) .....	.24
5 Barley.....	.48
6 Beans (dry and shelled) .....	.60
7 Beans, castor .....	.46
8 Bran.....	.20
9 Broom corn seed .....	.57
10 Blueberries.....	.42
11 Blue grass seed .....	.14
12 Buckwheat.....	.52
13 Carrots.....	.50
14 Clover seed60
15 Charcoal.....	.20
16 Coal.....	.80
17 Coke.....	.40
18 Corn (ear) dry68
19 Corn (ear) green72

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20 Corn Shelled)56
21 Corn Meal50
22 Cranberries36
23 Cucumbers (green)50
24 Currants.....	.40
25 Flaxseed.....	.56
26 Hempseed.....	.44
27 Gooseberries.....	.40

28 Peas (dry) .....	.60
29 Peaches.....	.48
30 Peaches (dried) .....	.33
31 Potatoes (Irish) .....	.60
32 Potatoes (sweet) .....	.50
33 Rape seed .....	.50
34 Red top grass seed .....	.14
35 Rye.....	.56
36 Salt (coarse)70
37 Salt (fine)50
38 Sorghum.....	.57
39 Timothy seed.....	.45
40 Tomatoes.....	.56
41 Wheat.....	.60
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42 Hungarian grass seed50
43 Lime.....	.70
44 Malt.....	.34
45 Millet.....	.50
46 Nuts (hickory)50
47 Oats.....	.32
48 Onions.....	.55
49 Orchard grass seed .....	.14
50 Parsnips.....	.42
51 One barrel of flour shall contain 196 pounds.	
52 One barrel lime shall contain 200 pounds.	

Sec. 31. Whenever any commodiay is sold on a basis of 2 weight, it shall be unlawful to employ any other weight in such 3 sale than the net weight of the commodity; and all contracts con- 4 cerning goods sold on a basis of weight shall be understood and 5 construed accordingly. Whenever the weight of a commodity is 6 mentioned in this act, it shall be understood and construed to 7 mean the net weight of the commodity.

Sec. 32. Any person who, by himself or by his servant or 2 agent, or as the servant or agent of another person, shall offer, 3 expose for sale, sell, use in the buying or selling of a commodity 4 or thing or for hire or award, or retain in his possession a false 26 [S. B. No. 97. 5 weight or measure or weighing or measuring device which has not 6 been sealed by a sealer or deputy sealer of weights and measures

7 within one year, or shall dispose of any condemned weight, meas-
8 ure, or weighing or measuring device contrary to law, or remove
9 any tag placed thereon by a sealer or deputy sealer of weights and
10 measurers; or who shall sell or offer or expose for sale less than
11 the quantity he represents, or shall take or attempt to take more
12 than the quantity he represents, when as the buyer, he furnishes
13 the weights, measurers, or weighing or measuring device by means
14 of which the amount of commodity is determined; or who shall
15 keep for the purpose of sale, offer or expose for sale, or sell any
16 commodity in a manner contrary to law; or who shall violate any
17 provisions of this act for which a specific penalty has not been
18 provided; or who shall sell or offer for sale, or use or have in
19 his possession for the purpose of selling or using, any device
20 or instrument to be used to or calculated to falsify any weights
21 or measure; shall be guilty of misdemeanor, and shall be pun-
22 ished by a fine of not less than twenty dollars or more than two
23 hundred dollars, or by imprisonment, for not more than three
24 months, or by both such fine and imprisonment, upon a first
25 conviction in any court of competent jurisdiction; and upon a
26 second or subsequent conviction in any court of competent juris-
27 diction he shall be punished by a fine of not less than fifty
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28 dollars, or more than five hundred dollars, or by imprisonment
29 in the county jail for more than one year, or by both such fine and
30 imprisonment.

Sec. 33. The word "person" as used in this act, shall be con-
2 strued to impart the plural and singular, as the case demands,
3 and shall include corporations, companies, societies and associa-
4 tions.

5 The word "weights, measures or weighing or measuring de-
6 vices," as used in this act, shall be construed to include all weights,
7 scales, beams, measures of every kind, instrument and mechanical
8 devices for weighing or measuring, and any appliances and ac-
9 cessories connected with any or all such instruments.

10 The words "sell" or "sale" as used in this act shall be con-
11 strued to include barter and exchange.

Senate Bill No. 275

[BY MR. BLESSING.]

Introduced February 4, 1915. Reference to a Committee dispensed with; rules suspended, taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact section seven of chapter thirty-nine of the acts of the legislature of West Virginia of the year one thousand eight hundred and eighty-seven.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter thirty-nine of the acts of the legislature of West Virginia of the year one thousand eight hundred and eighty-seven be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 7. The board of education of said independent school district shall establish and maintain a first class high school, with in the meaning of division (b) of section thirty of chapter forty-five of the code of West Virginia, in which no person, except a thoroughly qualified high school teacher holding a degree from a college at least equal to West Virginia University in its curriculum and standing, shall be employed or permitted to teach any of the branches regularly prescribed for first class high schools provided for in said division (b); and the requirements of this section, as to such high school, may be enforced by any taxpayer of said independent district by mandamus to compel performance

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of official duty thereunder, or injunction to prevent violation thereof.

In addition to said high school said board of education shall establish and maintain such other schools as shall, in their judgment, be promotive of the educational interests of children of said independent school district.

Pupils between the ages of six and twenty-one years, residing elsewhere than in said independent district shall be admitted to said schools upon payment to said board of education, in advance, of a reasonable monthly tuition, to be fixed by said board, and to become a part of the teachers' fund of said independent district. Said board of education shall, at a meeting to be held not earlier than the first day of July nor later than the first day of September in each year, appoint the teachers for said schools for the current

25 school year, and fix and determine their salaries for such year.
26 Such appointments shall be recorded by the secretary of said board;
27 and any teacher appointed by said board may, by them, be removed
28 for incompetency, neglect of duty, intemperance, profanity, cruelty
29 or immorality.

Senate Bill No. 344

[BY MR. GREGORY.]

Introduced February 17, 1915. Reference to committee dispensed with, rules suspended and taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend chapter ninety-six code of West Virginia by adding section 4167 A, B, C, D, E and F relative to lenders of money on salaries and personal property.

Be it enacted by the Legislature of West Virginia:

That chapter ninety-six of the code of West Virginia, entitled "Money and Interest." be amended to read as follows:

Section 4167-a. Any person, partnership or corporation.
2 engaged in the business of money lenders, other than a bank or
3 building and loan association, who shall make to any employee
4 an advance of money, or loan, on account of salary or wages due,
5 or to be earned in the future by such individual, upon an assign-
6 ment or note covering such loans or advance, shall not acquire
7 any right to collect or attach the same while in the possession or
8 control of the employer, unless such note or assignment is dated
9 on the same day on which such loan is actually made; and unless
10 within a period of three days after such loan and assignment or
11 note are actually made, the party making such loan or loans, and
12 taking such assignment or notes, shall have filed with the employer,
13 or employers of the individual, or individuals, so assigning his or her

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14 present or prospective salary or wages, a duly authenticated copy
15 of such agreement or assignment or notes under which the claim
16 is made. The day of making such loan or advance within the
17 meaning of this act, shall be deemed to be the day when the money
18 is delivered to the borrower, and the subsequent execution of any
19 instrument by virtue of a power of attorney shall not be deemed
20 to affect the time of the actual making of such loan or advance.

Sec. 4167-*b*. No action shall be maintained in any of the courts of this state, brought by the holder of any such contract, assignment, or notes, given by an employee for moneys loaned on account of salary or wages, in which it is sought to charge in any manner the employer or employers, unless a copy of such agreement, assignment or notes, together with a notice of lien, was duly filed with the employer or employers of the person making such agreement; assignment or notes, by the person, or persons, partnership or corporation, making said loan within three days after the said loan was actually made and the said agreement, assignments, or notes were given as provided in the previous section.

Sec. 4167-*c*. Every person, partnership or corporation other than a bank, trust company or building and loan association engaged in or seeking to engage in the business of loaning moneys upon the security of personal property, or of an assignment of salary or wages either earned or to be earned shall, on or before S. B. No. 344] 5

the first day of July next ensuing the passage of this act, file with the clerk of the county court in the county in which said person or corporation shall have their place of business, or shall transact business, a statement under oath containing the name and residence of the individual; or, in case of a partnership, the names and residence of the partners; or, in the case of a corporation, the names and residences of the officers, directors, and stockholders and managers or trustees of such corporation; and the place or places where said business is transacted by such individual, partnership or corporation, and the actual total amount of money then loaned by them or it for the preceding year, and the rate at which the same is loaned and to whom. After July the first next ensuing the passage of this act, it shall be unlawful to engage in the business of loaning money in the manner set forth in this act without, prior to engaging in such business, filing such a statement as provided in this act.

Sec. 4167-*d*. The several clerks of the county courts of this state shall keep an alphabetical index of all persons, partnerships or corporations filing the certificates provided for herein, and for the indexing and filing of such certificates, they shall receive a fee of one dollar. A copy of such certificate, duly certified to by the clerk of the county court in whose office the same is filed, shall be certified by him to the assessor of such county for the purpose

7 of taxation, and such certificate shall be presumptive evidence in
8 all courts of law in this state of the facts therein contained, and
9 shall be the valuation upon which the taxes to be paid by such
10 person, partnership or corporation shall be assessed.

Sec. 4167-*e*. After the passage of this act, no such persons,
2 partnership, or corporation shall directly or indirectly receive or
3 accept for the use and sale of personal property, or credit, or for
4 making any advance, or loan of money, either wholly or partly
5 in anticipation of salary or wages due to be earned, a greater sum
6 than at the rate of eighteen per centum per annum on the amount
7 of such loan or advance, either as a bonus, interest, or otherwise,
8 or under the guise of a charge for investigating the status of a
9 person applying for such loan or advance, drawing of papers or
10 other service in connection with such loan or advance.

Sec. 4167-*f*. Every person, partnership, director, stock-
2 holder, agent, trustee, officer, servant or employee of a corporation
3 of member thereof, who shall violate any provision of this act, di-
4 rectly or indirectly, or assent to such violation, shall be guilty of a
5 misdemeanor; and upon conviction thereon, be fined not less than
6 ten dollars nor more than thirty dollars for the first offense; and
7 not less than twenty dollars nor more than seventy-five dollars for
8 the second offense; and may, in the discretion of the court or jus-
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9 tice, in addition to such fine for the second offense, be confined in
10 jail not more than ten days.

11 All acts and parts of acts coming within the purview of this
12 act, and inconsistent therewith are hereby repealed.

Senate Bill No. 249

[BY MR. MILLER.]

Introduced February 1, 1915. Referred to the Committee on Im-
migration and Agriculture. February 2, reported back with the
recommendation that it do pass. February 16, read a second time
and ordered to its engrossment and third reading.

A BILL to amend and re-enact section seven hundred and four of
the code of West Virginia of one thousand nine hundred and
six relating to the duties of the county assessors, and making it

their duty to gather and report statistical information to the commissioner of agriculture.

Be it enacted by the Legislature of West Virginia:

That section seven hundred and four of the code of West Virginia of one thousand nine hundred and six be amended and re-enacted so as to read as follows:

Sec. 704. The state tax commissioner shall prepare and forward to the assessor such printed forms for the personal property book, and the land book, and such other lists of taxable subjects to be furnished by the assessors to persons chargeable with taxes, as will procure a perfect assessment of all persons and property, both real and personal, in this state, subject to taxation. The state tax commissioner shall also by letter, or printed circular, give such instructions to assessors respecting their duties as may seem to him judicious, and if any assessor negligently or wilfully fails to obey such instructions, so far as they are not contrary to law, he shall forfeit not less than ten dollars, nor more than one hundred dollars; and upon being convicted a second time of a like offense, he shall be removed from office. It shall further be the duty of each of the assessors of each of the several counties of the state, to receive from the commissioner of agriculture, such books, blanks and papers, as the said commissioner may supply for the gathering of such agricultural and other statistical information as he may deem of value to the people of the state.

Commencing on the date as now or may hereafter be prescribed by law for the general assessment of property in this state, and continuing throughout the time prescribed by law, for the assessment of property, the assessors, their assistants and deputies, shall gather, obtain and report to the commissioner of agriculture upon the blanks furnished by him, and in accordance with such books, rules and regulations as he may prescribe, all statistical information set forth in and required by his rules and regulations, and as specified upon the books and blanks prepared by him. Such information shall be returned to and filed with the commissioner of agriculture not later than the fifteen day of July each year.

To collect such information as is required by the above paragraph, it shall be necessary for the assessor, his assistants or deputies, to call upon every person in the respective magisterial

34 district allotted to them, and ascertain such information in the
35 same manner and at the same time as is now or may hereafter be
36 prescribed by the general assessment law of the state for the as-
37 sessment of property.

38 For any neglect or wilfull failure to properly perform any of
39 the duties herein set forth, relating to the collection of statistics,
40 or any of the legal requirements of said commissioner of agricul-
41 ture, the offending person or persons upon conviction therefor,
42 shall be subject to all the penalties set forth in this section relat-
43 ing to the assessment of property, and may be proceeded against
44 in the same manner as is herein prescribed in such cases.

45 All acts or parts of acts in conflict with this act are hereby
46 repealed.

Senate Bill No. 75

[BY MR. MCCLUNG.]

Introduced January 18, 1915. Referred to the Committee on Education. January 28, reported back with the recommendation that it do pass. February 5, taken up in regular order, read a first time and ordered to a second reading.

A BILL to enable the board of directors of Clay county high school to raise sufficient funds with which to grade and improve its school grounds, and to discharge any indebtedness against said board.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the board of directors of Clay county high
2 school is hereby authorized and empowered to lay a levy for the
3 year beginning on the first day of July in the year one thousand
4 nine hundred and fifteen, for an amount sufficient to grade and
5 improve its school grounds, in the town of Henry, in said Clay
6 county, and to pay off any indebtedness now existing against said
7 board; but said levy shall not exceed ten cents on each one hun-
8 dred dollar valuation of taxable property in said county for said
9 year.

Senate Bill No. 36

[BY MR. GOODYKOONTZ.]

Introduced January 18, 1915. Referred to the Committee on the Judiciary. January 21, reported back with the recommendation that it do pass. January 22, taken up in regular order, for consideration, read a first time, and ordered to a second reading.

A BILL to amend and re-enact chapter seventy-five of the Code of Weht Virginia of 1913, entitled "Lien for purchase money, and lien of merchants, laborers and others."

Be it enacted by the Legislature of the State of West Virginia:

Section 1. If any person convey any real estate and the
2 purchase money or part thereof remain unpaid at the time of the
3 conveyance, he shall not thereby have a lien for such unpaid pur-
4 chase money, unless such lien is expressly reserved on the face of
5 the conveyance.

Section 2. (a) Every person, firm or corporation, which shall
2 erect, build, construct, remove or repair any building or other
3 structure, or any fence, outbuilding, sidewalk, or other improve-
4 ment appurtenant to any such building or other structure, under
5 and by virtue of a contract with the owner or his authorized agent
6 for such erection, building, construction, removal or repair, either
7 for an agreed lump sum or upon any other basis of settlement and
8 payment, and every architect, engineer or other person who shall
9 perform any professional services or prepare any plan, drawing
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10 or specification in or for the erection, building, construction re-
22 moval or repair of any such building or other structure or improve-
12 ment appurtenant thereto under a contract with the owner there-
13 of, or his authorized agent, shall have a lien upon such building
14 on the interest of the owner thereof in the lot of land whereon the
16 same stands, to secure the payment of said contract price or other
17 compensation therefor.

18 (b) Every person, firm or corporation who, under and by
19 virtue of a contract with such general contractor or with any sub-
20 contractor for part of said work, either for an agreed contract
21 price or by day by day piece, or other basis of payment, shall
22 furnish any part of the materials, machinery, or other necessary
23 supplies or equipment, or shall perform any labor or do any work

24 necessary to the completion of said general contract, in the erec-
25 tion, construction, building, repair or removal of any building or
26 other structure or improvement appurtenant thereto, as provided
27 in such general contract, shall have a lien upon such building or
28 other structure or improvement appurtenant thereto, so built,
29 erected, constructed, repaired or removed thereunder, and upon
30 the interest of the owner thereof in the lot or tract of land where-
31 on the same stands.

32 (c) Every person, firm or corporation, which shall furnish
33 to any owner, for use in the erection, construction, repair or re-
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34 moval of any building or other structure or improvement appur-
35 tenant thereto, any materials, machinery or other equipment or
36 supplies necessary to the completion of such building or other
37 structure or improvement shall have a lien upon the said building
38 or other structure or improvement thereto, to secure the payment
39 of the value of his said materials, machinery, or other equipment
39-a or supplies.

40 (d) Every person, firm or corporation, which shall furnish
41 to any such general contractor or to any such sub-contractor, any
42 materials, machinery or other equipment or supplies necessary to
43 the completion of such building or other structure or improve-
44 ment thereto, for use in the erection, construction, repair or re-
45 moval thereof, by virtue of a contract between such general or sub-
46 contractor and the said material man or furnisher of machinery or
47 other supplies or equipment, shall have a lien upon such building
48 or other structure or improvement thereto and upon the interest
49 of the owner in the lot or tract of land whereon the same stands
50 to secure the payment of the value of such materials, machinery
51 and other equipment and supplies.

52 (e) Every workman, artisan, mechanic, laborer or other per-
53 son, who shall perform any work or labor in the erection, con-
54 struction, repair or removal of any such building, or other struc-
55 ture or improvement appurtenant thereto, by virtue of contract

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56 for such work and labor directly with the owner thereof, shall
57 have a lien upon the said building, or other structure, or improve-
58 ment thereto, and upon the interest of the owner in the land up-
59 on which the same stands, to secure the payment of the value of
60 such work and labor.

61 (f) Every workman, artisan, mechanic, laborer or other per-

62 son who shall perform any work or labor under the employment
 63 of any general contractor or of any sub-contractor in the erection,
 64 construction, repair or removal of any building or other structure
 65 or improvement thereto, shall have a lien upon such building, or
 66 other structure, or improvement appurtenant thereto, and upon
 67 the interest of the owner in the lot or tract of land whereon the
 68 same stands, to secure the payment of the value thereof.

Section 3.(a) But the lien created and authorized by para-
 2 graph (a) of Section 2 shall be discharged from and after ninety
 3 days from the completion of the said contract, and the lien created
 4 and authorized by paragraph (b) of Section 2 shall be discharged
 5 from and after sixty days from the completion of said sub-contract,
 6 and the lien created and authorized by paragraph (c) of Section
 7 2, shall be discharged from and after ninety days from the furnish-
 8 ing of the last said materials, machinery or other supplies and
 9 equipment, and the lien created and authorized by paragraph (d)
 10 of Section 2 shall be discharged from and after sixty days from the
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11 date of the furnishing of the last of said materials, machinery or
 12 other equipment, supplies, and the lien created and authorized by
 13 paragraph (e) of Section 2 shall be discharged from and after
 14 ninety days from the date of performing of the last said work
 15 and labor, and the lien created and authorized by paragraph (f)
 16 of Section 2 shall be discharged from and after sixty days from
 17 the date of the performing of the last of said work and labor, with-
 18 in the said respective periods, the claimant of any such lien have
 19 perfected and preserved the same, as hereinafter provided.

20 (b) For the purpose of perfecting and preserving his said
 21 lien, any such general contractor and the said architect, engineer
 22 or other person performing professional services, as provided in
 23 paragraph (a) of Section 2, within ninety days after the comple-
 24 tion of his work provided for in said contract, shall cause to be
 25 recorded in the office of the clerk of the county court of the county
 26 wherein such property is situate, a notice of such lien, which
 27 notice shall be sufficient if in form and effect as follows:

28 State of West Virginia,

29 County of

30 Notice is hereby given, in accordance with the laws of the
 31 State of West Virginia, that the undersigned claims a lien to se-
 32 cure the payment of the sum of \$. upon the interest
 33 of in and to lot number of block

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34 number, as shown on the official map of the city
 35 of (or other adequate and as
 36 ascertained description of the real estate to be charged), and upon
 37 the following buildings, structures and improvements thereon:
 38 (List the buildings, structures or improvements sought to be
 39 charged).

40 Given under my hand this day of
 41 19....

42
 43, being first duly sworn,
 44 upon his oath says that the statements contained in the foregoing
 45 notice of lien are true, as he verily believes.

46 Given under my hand this day of
 47 19....

48 My commission expires
 49
 50 (Official Capacity)

51 For the recordation whereof, the clerk of the said county
 52 court shall be entitled to receive a fee, payable in advance by the
 53 person claiming such lien, of fifty cents.

54 (c) For the purpose of perfecting and preserving his said lien,
 55 if he desire to do so, every such sub-contractor, within sixty days
 56 after the completion of his sub-contract, shall file with the owner

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57 or his authorized agent, by any of the methods provided by law
 58 for the service of legal notices or summons, a notice of lien, which
 59 shall be sufficient if in form and effect as follows:

60 *Notice of Mechanics Lien*

61 To :

62 You will please take notice that the undersigned
 63 was and is sub-contractor with
 64, who was and is general
 65 contractor (or sub-contractor with
 66 who was and is general contractor with you, as the case maybe),
 67 for the furnishing of materials and doing of the work and labor,
 68 necessary to the completion of (here describe the nature of the sub-
 69 contract) on that certain building (or other structure or improve-
 70 ment, as the case may be), owned by you and situate on lot Number
 71 of Block Number..... as shown on the
 72 official map of (or other definite and ascertain-

73 able description of the real estate) and that the contract price and
 74 value of said work and materials is \$. You are
 75 further notified that the undersigned has not paid therefor (or
 76 has been paid only \$. thereof) and that he claims
 77 and will claim a lien upon the said building (or other structure
 78 or improvement) and upon your interest in the said lot, (or tract)
 79 of land, to secure the full payment thereof.

80
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81 State of West Virginia,

82 County of

83, being first duly sworn,
 84 upon his oath says that the statements in the foregoing notice
 85 of mechanics lien are true, as he verily believes.

86

87 Taken, subscribed and sworn to before me this day of.

88 19.

89 My commission expires

90

91 Notary Public.

92 But said lien shall be discharged and voided, unless within
 93 ninety days after the completion of his said sub-contract as afore-
 94 said the said sub-contractor shall cause to be recorded in the of-
 95 fice of the clerk of the county court of the county wherein such
 96 property is situate a notice of his said lien, which notice shall be
 97 sufficient if in form and effect as that provided in paragraph (b)
 98 of Section 3 of this act.

99 (d) For the purpose of perfecting and preserving his said
 100 lien, every such material man or furnisher of machinery or other
 101 necessary equipment, under a contract with the owner or his au-
 102 thorized agent, shall cause to be recorded in the office of the clerk
 103 of the county court of the county wherein such property is situ-

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104 ate, within ninety days from the date when he shall have ceased
 105 to furnish material or machinery or other necessary equipment,
 106 a notice of his said lien, which notice shall be sufficient, if in form
 107 and effect as that provided in paragraph (b) of Section 3 of this
 108 act.

109 (e) For the purpose of perfecting and preserving his said
 110 lien, every such material man or furnisher of machinery or other
 111 necessary equipment, who shall have furnished such material,

112 machinery or equipment under a contract with any such con-
 113 tractor or with any such sub-contractor, within sixty days after
 114 he shall have ceased to furnish such material or machinery or
 115 other necessary equipment, shall file with the owner, or with his
 116 authorized agent, by any of the methods provided by law for
 117 the service of legal notices or summons, a notice of his said lien,
 118 which notice shall be sufficient if in form and effect as follows:

119 *Notice of Mechanics' Lien*

120 To
 121 You will please take notice that the undersigned
 122 has furnished and delivered to
 123 who was the contractor with you (or
 124 sub-contractor with who was con-
 125 tractor with you, as the case may be,) for use in the erection and
 126 and construction (or repair, removal, improvement as the case

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127 may be be) of (here list the buildings or other structure or im-
 128 provement to be charged) on real estate known as (here insert
 129 adequate and ascertainable description of the real estate to be
 130 charged) and that said materials were furnished on the dates, of
 131 the nature and in the quantities and at the price as shown in the
 132 following account thereof:

133 (Here insert itemized account.)

134 You are further notified that the undersigned has not been
 135 paid the sum of \$. (or that there is still due and owing
 136 to the undersigned thereon the sum of \$.) and
 137 and that he claims a lien upon your interest in the said lot or
 138 tract) and upon the said buildings, structures and improvements
 139 thereon, to secure the payment of the said sum.

140

141 State of West Virginia,

142 County of being first duly
 143 sworn upon his oath says that the statements in the foregoing
 144 notice of lien contained are true, as he verily believes.

145 Taken, subscribed and sworn to before me, this
 146 day of 19.....

147 My commission expires

148

149 (Official Capacity.)

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13

150 But such lien shall be discharged and voided, unless within

151 ninety days after such material man or other furnisher of ma-
 152 chinery or other necessary equipment, shall have ceased to fur-
 153 nish such materials or machinery or other equipment, he shall
 154 cause to be recorded in the office of the clerk of the county court
 155 of the county wherein the said property is situate a notice of his
 156 said lien, which notice shall be sufficient in form and effect as that
 157 provided in paragraph (b) of Section 3 of this act.

158 (f) For the purpose of perfecting and preserving his said
 159 lien, every such workman, artisan, mechanic, laborer or other per-
 160 son who shall have done any work or performed any labor upon
 161 any such building or improvement, under a contract direct with
 162 the owner thereof or his authorized agent, shall cause to be re-
 163 corded in the office of the clerk of the county court of the county
 164 wherein the said property is situate within ninety days after he
 165 shall have ceased to perform any such work or labor a notice of
 166 his said lien, which notice shall be sufficient if in form and effect
 167 as that provided in paragraph (b) of Section 2 of this act.

168 (g) For the purpose of perfecting and preserving his said
 169 lien, every such workman, artisan, mechanic, laborer or other
 170 person who shall have performed any work, or labor upon such
 171 building or improvement thereto, under a contract with any
 172 general contractor or with any sub-contractor, shall cause to be

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173 filed with the owner by any of the methods provided by law for
 174 the service of legal summons or notice, within sixty days after
 175 he shall have ceased to perform any such work or labor, a notice
 176 of his said lien, which notice shall be sufficient if in form as fol-
 177 lows:

178 *Notice of Mechanics Lien*

179 To

180 You will please take notice that the undersigned has per-
 181 formed work and labor under a contract with.....
 182 who was general contractor with you (or who was sub-contractor
 183 with who was general contractor
 184 with you) in the erection and construction (or removal, repair,
 185 improvement or otherwise, as the case may be) of a certain
 186 building (or other structure or improvement) on real estate
 187 known as (here insert adequate ascertainable description of real
 188 estate to be charged) and that said work and labor was per-

189 formed on the dates, for the purpose, and the prices as shown in
190 the following itemized account thereof:

191 (Here insert itemized account)

192 You are further notified that the undersigned has not been
193 paid the sum of \$. (or that there is still due and
194 owing to the undersigned thereon the sum of \$.) and
195 that he claims a lien upon your interest in the said lot (or tract)

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196 of land and upon the said buildings (or structure or other im-
197 provement) to secure the payment of the said sum.

198 State of West Virginia,

199 County of

200, being first duly sworn, upon his
201 oath says that the statements in the foregoing notice of me-
202 chanic lien contained are true, as he verily believes.

203

204 Taken, subscribed and sworn to before me, this
205 day of 19....

206 My commission expires

207

208 (Official Capacity)

209 But such lien shall be discharged, unless said workman, arti-
210 san, mechanic, laborer or other person shall cause to be recorded
211 in the office of the clerk of the county court of the county where-
212 in the said property is situate, within ninety days after he shall
213 have ceased to do work or perform labor upon said building or
214 improvement thereto, a notice of his said lien, which notice shall
215 be sufficient if in form and effect as that provided in paragraph
216 (b) of Section 3 of this act.

217 (b) The failure of any such contractor or person dealing
218 direct with the owner or his authorized agent to cause such

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219 notice to be recorded within ninety days, as above provided, or
220 the failure of any such subcontractor or any person dealing
221 with any such contractor or sub-contractor to cause to be filed
222 with the said owner within sixty days, as above provided, the
223 notice herein required to be given, to be recorded in the office
224 of the clerk of the county court, within ninety days, as above
225 provided, the notice hereinbefore required to be recorded, or the
226 failure of any such claimant of any such lien to comply sub-
227 stantially with all of the requirements of this act, for the per-

fecting and preservation of his said lien, within the time herein provided therefor, shall operate as a complete discharge of the said owner and of his said property from all claims and charges of any such contractor or sub-contractor, material man or laborer for any such work claimed to have been performed and for any materials, machinery, or other necessary equipment claimed to have been furnished, in connection with said work.

(i) Whenever any such owner upon whom it is desired to serve any such notice of lien shall be a non-resident of this state, or being a resident thereof, shall depart thence or shall otherwise secrets himself for the purpose of avoiding or evading personal or other legal service of any such lien notice, the person claiming lien may file the same with such owner by depositing such notice of lien in the United States mail, registered to the said owner

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at his last known address. In any such case, proof of the non-residency of such owner, or of such facts as constitute departure from this state for the purpose of avoiding the service of such notice or of such facts as tend to show such purpose of avoiding or evading service of such notice together with proof of the forwarding by registered mail to the last known address of such owner of such lien notice, shall be sufficient proof of the filing thereof with him. Provided that such mailing be within such time before the expiration of the lien period as, in the ordinary course of the mails, will enable such to reach the last known address of such owner before the expiration of the said period of sixty days.

Section 4. For the purpose of this act, all materials furnished and all work done by any one person upon any one building on the improvements appurtenant thereto shall be deemed and considered one contract, whether or not all of said material was bought at one time, or under one general agreement or otherwise and whether or not all of said work and labor was contracted for at one time or otherwise.

Section 5. All of the liens authorized and created by this Act shall have priority over any and all other liens created by deed or otherwise, on such building or other structure and improvements appurtenant thereto and on the interest of the owner upon

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the lot of ground whereon the same stands or to which may have been removed, subsequently to the time when such labor shall

7 have been performed, or such material or machinery or other nec-
8 essary equipment shall have been furnished. Such laborers, arti-
9 sans, mechanics, workmen, furnishers of material and machinery
10 and other necessary equipment shall have first liens, and the liens
11 of all such persons, when perfected and preserved as required by
12 this Act, shall take precedence over any lien taken or to be taken
13 by the contractor indebted to them for the labor, material, ma-
14 chinery or other equipment, and every assignment or transfer by
15 any such head contractor of his contract with the owner, or by any
15-a such sub-contractor of his contract with the contractor or
16 any proceeding in attachment or otherwise against such head con-
17 tractor or sub-contractor, with the purpose of incumbering or sub-
18 jecting his interest in said contract, shall be subject and subse-
19 quent to the perfected liens of all such laborers, workmen, artisans,
20 material men and furnishers of machinery and other necessary
21 equipment. But all of the perfected liens of such laborers and
22 workmen and of such material men and furnishers of machinery
23 and other necessary equipment and of such contractors and sub-
24 contractors shall be of equal dignity, without priority among
25 themselves, except as herein otherwise provided.

Section 6. (a) The said owner may, at any time, by notice
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2 in writing, require such laborer, mechanic, workman or other per-
3 son doing work or labor upon said building or other structure
4 or improvement appurtenant thereto, or to any such material men
5 or other person furnishing materials, machinery or other neces-
6 sary equipment for such work to file with him an itemized ac-
7 count of the work done by him or of the materials furnished, or
8 machinery or other necessary equipment furnished by him for the
9 said work, to show the dates done or furnished, the price charged
10 therefor and the nature of such work or materials and the neglect
11 or failure of any such laborer, mechanic, workman or other person
12 furnishing materials, machinery or other necessary equipment for
13 the doing of the same, so to file the said itemized statement with
14 the said owner, within ten days after the receipt by him of the
15 said written notice to do so, shall release the said owner from all
16 responsibility and his property from all lien or charge for all labor
17 done and for all materials furnished by the person so failing to
18 file such required itemized statement, prior to the giving of said
19 notice.

19 (b) Any laborer or other person employed to do any work

20 or furnish any materials or machinery for the erection, construc-
21 tion, alteration, repair or removal of any building or other struc-
22 ture or any improvement appurtenant thereto, by another who
23 may have contracted with the owner therefor may, before doing

20

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24 any work or furnishing any material or machinery, give the owner
25 of such building or other structure or improvement thereto notice
26 in writing that if he is not paid therefor by the person employing
27 him he will look to the owner for payment; and it shall not be
28 necessary for the person who has given such notice in writing to
29 file the account and notice with the owner within sixty days of the
30 date of the doing of the last of said work or of furnishing the last
31 of the said materials or machinery, unless he is required by the
32 owner in writing within said sixty days to do so, and his neglect or
33 failure to file such notice and account within sixty days, unless so
34 required to do so, shall in no way affect or impair his said lien,
35 if it be otherwise perfected and preserved.

Section 7. No payment by the owner or by his authorized
2 agent to any such contractor or sub-contractor of any part or of all
3 of the contract price for the erection and construction of any such
4 building, structure or improvement appurtenant thereto or for any
5 part or section of said work shall affect or impair or limit the
6 lien of the laborer, or material man or furnisher of machinery or
7 other necessary equipment as provided for in this act, except as
8 herein provided.

Section 8. Any such owner may limit his liability upon such
2 building contract to the sum agreed therein to be paid therefor,
3 by recording his said contract with the said general contractor in

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4 the office of the clerk of the county court of the county wherein
5 such building or other structure is situate, prior to the beginning
6 of the building, erection and construction thereof, and by requir-
7 ing to be given by his contractor and by recording with his said
8 general contract a valid solvent bond, in a penalty sufficiently
9 large to cover the reasonable cost of all labor and materials re-
10 quired for the building, erection and completion of the said build-
11 ing or other structure and of the improvements appurtenant there-
12 to, with solvent surety, conditioned that in the event any such
13 laborer, material man or other person, having perfected his lien
14 as allowed by this act, be deprived by the recordation of the said
15 contract from receiving from said owner the amount of his said

16 lien, then the said bond and sureties thereon shall be responsible
17 therefor, or for any balance thereof not collected by said lien or
18 from said owner and from his said property.

Section 9. Any such owner who shall cause his said general
2 contract to be recorded in the said clerk's office and who shall also
3 cause to be executed and recorded the bond therewith as provided
4 by the next preceding section shall be exempt from the payment
5 of more than said contract price, and his said property shall like-
6 wise be exempt therefrom, and all such liens created by this act as
7 are not fully satisfied and discharged by the said owner by reason

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8 of the limitations of said recordation, shall be paid by said con-
9 tractor and his said sureties on the said bond.

Section 10. It shall be the duty of the State Board of Con-
2 trol, and of all county courts, boards of education, boards of
3 trustees, and other legal bodies having authority to contract for
4 the erection, construction, improvement, alteration or repair of any
5 public building or other structure, or any building or other struc-
6 ture used or to be used for public purposes, to require of every per-
7 son to whom it shall award, and with whom it shall enter into, any
8 contract for the erection, construction, improvement, alteration or
9 repair of any such building or other structure or other building
10 or structure used or to be used for public purposes, that said con-
11 tractor shall cause to be executed and delivered to the secretary
12 of the said board or other legal body, or other proper and desig-
13 nated custodian of the papers and records thereof, a good, valid
14 solvent and sufficient bond, in the penal sum equal at the least to
15 the reasonable cost of the materials, machinery, equipment and
16 labor required for the completion of said contract, and conditioned
17 that in the event such contractor shall fail to pay in full for all
18 such materials, machinery, equipment and labor used by him in
19 the erection, construction, improvement, alteration or repair of
20 such public building or other structure used or to be used for pub-
21 lic purposes, then said bond and the sureties therein shall be re-
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22 sponsible to said material man, furnisher of machinery or equip-
23 ment, and furnisher or performer of said labor, or their assigns,
24 for the full payment of the full value thereof.

Section 11. Whenever it shall be necessary for suit to be
2 brought for the enforcement of any of the liens contemplated by
3 this act, as hereinafter provided, the said contractor and the sure-

4 ties upon the said bond shall be made parties and all matters arising
5 upon said bond and the liabilities thereunder shall be litigated
6 and determined in the said lien suit and it shall be not necessary
7 for judgment upon said bond to be taken at law, but all such proceedings
8 are necessary to enforce liability upon such bond shall be
9 had in said court of chancery, according to the usual and ordinary
10 course of proceeding therein.

Section 12. In the event any such owner should fail to record
2 such contract and bond, or should record such contract without
3 such bond, or in the event the penalty of said bond should not
4 be sufficient to cover the reasonable cost of all labor and material
5 necessary to the completion of said contract or in the event the said
6 bond should not be solvent, then the said contractor shall be deemed
7 to be the agent of the said owner and the building or other structure
8 and improvements appurtenant thereto together with the interest
9 of the owner thereof in and to the lot of land whereon the
10 same stands or to which it is removed, shall be held liable and sub-

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11 ject to such perfected liens, for the full and true value of all work
12 and labor done, and of all materials, machinery and equipment furnished
13 therefor, prior to such recording, although the same may exceed
14 in the aggregate the price stipulated in the contract between
15 the owner and the contractor.

Section 13. It shall be the duty of the clerk of the county
2 court of the county to enter every such notice of lien in a book by
3 him to be kept for that purpose, to be called "mechanics lien record,"
4 which book shall be well and properly indexed, so as to show
5 the names of the parties, the amount and character of the claim,
6 when filed, and the description of the property to be charged by said
7 lien, for which service he shall receive fifty cents, to be paid in advance
8 by the person claiming the lien.

Section 14. Proof of the sale to any such contractor or subcontractor
2 of any materials, machinery or other equipment, for use
3 in the performance of any such contract, and of the delivery of
4 such materials, machinery or other equipment to the said contractor,
5 or, sub-contractor or his authorized agent on the premises shall be
6 *prima facie* proof of the use of the said materials, machinery or
7 equipment in the erection and construction of the said building or
8 other structure or improvement appurtenant thereto, and upon the
9 proving of such facts, the burden of showing that such materials,
10 machinery and equipment were not used in the said building or

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11 other structure or improvement appurtenant thereto shall be upon
12 the owner or other person disputing the said use thereof.

Section 15. Any materialman or furnisher of machinery or
2 other equipment necessary to the performance of any one such
3 general contract or sub-contract, who shall furnish such material,
4 machinery or other equipment in quantities for use in more than
5 one building or other structure or improvement appurtenant there-
6 to, and any workman, laborer or other person who shall perform
7 work or labor upon more than one such building or other structure
8 or improvement appurtenant thereto, provided for in such contract,
9 shall have a lien upon all of such buildings and other structures
10 and improvements into which his materials were put or upon which
11 his work and labor was expended, and upon the interest of the
12 owner in and to the lot of ground upon which all of such building
13 and structures stand or to which they may be removed, and such
14 lien may be perfected and preserved by one notice thereof to such
15 owner and by one recordation thereof, and it shall not be necessary
16 for such lienor to give record notice against each separate building
17 or structure or improvement thereto.

Section 16. When the owner fails to perform his part of the
2 contract and by reason thereof the other party, without his own
3 default, is prevented from completely performing his part, he shall
4 be entitled to reasonable compensation for so much as he shall

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5 have performed, in proportion to the prices stipulated for the
6 whole, and shall have a lien upon the building or other structure
7 upon which his work may have been performed or for which his
8 material or machinery was furnished and upon the interest of the
9 owner in the lot of ground whereon the same stands, to secure the
10 payment thereof, when properly perfected and preserved according
11 to the provisions of this act.

Section 17. Every workman, laborer, or other person who
2 shall do or perform any work or labor, for any incorporated com-
3 pany doing business in this State, by virtue of a contract, either
4 directly with such incorporated company or with its general con-
5 tractor or with any sub-contractor, shall have a lien for the value
6 of such work or labor upon all real estate, personal property of
7 said company, and such lien shall have priority over any lien cre-
8 ated by deed or otherwise on such real estate or personal property,
9 subsequent to the time when the said labor was performed, but

10 there shall be no priority of lien as between the parties claiming
11 lien under the provisions of this section.

Section 18. Such lien shall be discharged unless the person
2 desiring to avail himself thereof, within ninety days from the time
3 he shall have ceased to work or labor for such incorporated com-
4 pany or for such contractor, shall file with the clerk of the county
5 court of the county in which such work or labor was performed, or
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6 in which the principal office, works, real estate or personal property
7 of such incorporated company is situated, a just and true account
8 of the amount due him after allowing all credits, which accounts
9 shall be sworn to by the person claiming them, or by some one in
10 his behalf.

Section 19. The clerk of the county court, to whom such ac-
2 count is presented, shall record the same in the Mechanics' Lien
3 Record, for which service he shall receive fifty cents, to be paid in
4 advance by the person claiming the lien.

Section 20. Unless a suit to enforce any lien, authorized by
2 this act, is commenced within six months after the person desiring
3 to avail himself thereof, shall have filed his account in the clerk's
4 office, as hereinbefore provided, such lien shall be discharged; but
5 a suit commenced by any person having such lien, shall for the
6 purpose of preserving the same, inure to the benefit of all other
7 persons having a lien under this chapter on the same property.

Section 21. If the lien is established in favor of any of the
2 creditors whose claims are presented in such suit, the court shall
3 order a sale of the property on which the lien is established, or so
4 much thereof as may be sufficient to satisfy such claims in like
5 manner as in other suits in chancery, and the court may, in addi-
6 tion, give a personal decree in favor of such creditors for the
7 amount of their claims against any party as to whom they may

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8 be established; such decree to have effect of, and to be enforced as
9 other decrees for money.

Section 22. When a debt secured by such lien is fully paid
2 at any time after such creditor shall have filed his account in the
3 office of the clerk of the county court, such creditor shall cause the
4 clerk to enter discharge of such lien in margin of the book in
5 which such account is entered and immediately opposite thereto, or
6 shall execute a release thereof, which may be recorded in the book
7 in which the account is entered.

Section 23. The citizens of this State shall have a lien upon
2 all domestic steamboats, steamers and vessels, propelled wholly or
3 in part by steam, gas, fluid, naphtha or electricity, which ply upon
4 the navigable waters of this State, and which are registered in this
5 State, for all work and labor done upon said vessels, and for all
6 materials, goods wares and merchandise furnished said vessels; said
7 lien to be enforced by appropriate remedy in courts having juris-
8 diction of the subject matter.

Section 24. That the owner of any stallion, jack or bull, shall
2 have a lien upon the foal or calf thereof, whenever the service of
3 such stallion, jack or bull was had by contract with the owner or
4 agent of the owner, of the dam or cow of such foal or calf, at the
5 time of such service. Such lien shall cease unless the person
6 desiring to avail himself thereof shall within the six months from
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7 the birth of such foal or calf, file before some justice in the county
8 in which the said foal or calf may be, his own affidavit, or that of
9 some creditable person, stating the amount of his lien against
10 such foal or calf, and that such amount is due by contract; also
11 a description of the foal or calf upon which such lien is claimed.
12 Upon the filing of such affidavit the justice shall issue a warrant
13 to the sheriff or any constable of the county, whose duty it shall
14 be under such warrant to distrain for the amount claimed in said
15 affidavit, and such distress shall be levied upon such foal, and the
16 same shall be disposed of in the same manner as if taken under a
17 distress for rent.

Senate Bill No. 112

[BY MR. GREGORY.]

Introduced January 20, 1915. Referred to the Committee on the
Judiciary

A BILL to provide for the location, drilling, casing, protecting, op-
erating, abandoning, plugging and filling of natural gas and pe-
troleum wells, and for the protection and preservation of life and
property, especially in and about coal mines in gas and oil re-
gions; creating the office of chief inspector of natural gas and
petroleum wells, and providing penalties for the violation of this
act.

Be it enacted by the legislature of West Virginia:

Definitions.

Sec. 1. That for the purpose of this act the terms and definitions contained therein shall be as follows:

Well—A bore-hole drilled for the purpose of developing natural gas or petroleum, or a bore-hole producing natural gas or petroleum.

Well Operator—Any person, persons, firm, partnership, corporation, company, or association, who drill, operate or abandon, or purposes to drill, operate or abandon such well as hereinbefore defined.

Coal Operator—Any person, persons, firm, partnership, corporation, company, or association owning, leasing or operating coal mines, or coal properties, but excluding coal stripping operations.

Plat—A map, drawing, or print made in accordance with the provisions of this act, as hereinafter contained.

Casing—The pipe commonly used within wells drilled for natural gas and petroleum. The sizes of casing refer to nominal commercial dimensions.

Cement Mortar—Cement mortar shall consist of one part Portland cement and two parts of clean sand, mixed with sufficient water.

Coal Bed—A workable bed or seam of coal that may be mined during the reasonable life of a well proposed to be drilled through it.

The Well Inspector—The chief inspector of natural gas and petroleum wells, or his duly authorized deputy.

Location of Well.

Sec. 2. When a location for a well has been made, the well operator shall make application in writing to the chief well inspector for a license to drill, and send therewith a description and plat in duplicate of the proposed location, and an application fee of ten dollars.

The location shall be determined by survey, and the description and plat shall give the courses and distances from two permanent points on the boundaries of the tract of land upon which the well is located, together with the name of the tract of land, names of adjoining tracts, township, or district or county.

11 The well operator shall send to the coal operator, if known,
12 and to the state coal mine inspector, a copy of the description and
13 plat filed with the chief well inspector.

14 Immediately on the receipt of the plat the coal operator shall
15 verify the well location, and mail to the well operator a plat show-
16 ing the present and proposed mine workings under the tract of
17 land on which the proposed well is located.

18 The license to drill shall issue immediately on the expiration
19 of five days—excluding legal holidays—after the application and
20 the plat of location have been received by the well inspector, un-
21 less he makes or shall have received notice of complaint during
22 that time.

23 If notice of complaint is made by or served on the well in-
24 spector within the said five days, then it shall be the duty of the
25 well inspector to confer with the several interests, including the

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26 state mine inspector, coal operator, well operator, and, where
27 possible, the owner of the land and the royalty interest, and des-
28 ignate, within ten days of the receipt of the application for li-
29 cense, a suitable location for the well; or, if no well can be drilled
30 on the premises, because of conditions hereinafter specified, re-
31 fuse to issue a license to drill.

32 If the well is relocated a resurvey shall be made by the well
33 operator, and corrected description and plat mailed as previously
34 required.

35 Each coal operator shall furnish annually to the inspector a
36 plat of all of his present and immediate projected mining opera-
37 tions within the state, showing the location of all known wells.
38 The coal operator shall also furnish, if requested, to any well op-
39 erator a plat of the mine under the lease, or property owned or
40 operated by the said well operator.

41 No well shall be located within three hundred (300) feet
42 of a hoisting or air shaft, slope or drift into an artificially ven-
43 tilated coal mine when not definitely abandoned or sealed, nor
44 shall such well be located within three hundred (300) feet of
45 any mine shaft house, boiler house, engine house, power house,
46 mine fan, or mine tipple, unless such structure has been aban-
47 doned.

48 No well shall be drilled within fifteen (15) feet of any un-
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49 derground haul way, traveling way, drainage way or air way.

50 It shall be the duty of the chief well inspector to issue the

51 license in duplicate, and the well operator shall display at the lo-
52 cation one copy of the license, properly protected from injury,
53 and in such place and manner that it may be easily seen.

54 The license shall expire at the end of one year from the date
55 of issue unless drilling operations are actually in progress.

Manner of Drilling and Protecting.

Sec. 3. Each well passing through a workable bed of coal
2 shall be drilled, cased and protected in the manner hereinafter
3 provided:

4 (a) Where the coal is in place.

5 A hole of a diameter six inches greater than the inside of the
6 outside casing to be put through the coal, shall be drilled at least
7 thirty (30) feet below the bottom of said coal bed.

8 Within this hole shall be placed the casing, and the space be-
9 tween the outside of said casing and the wall of the hole shall
10 be filled with cement mortar, or puddled clay, to a height of at
11 least thirty (30) feet above the top of said coal bed, to exclude
12 water from the coal bed.

13 (b) Where the coal is removed and the mine excavation is
14 inaccessible.

15 A hole of a diameter sufficiently large to permit the setting

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16 in of a liner four inches larger in diameter than the inside diam-
17 eter of the casing to be put through the coal shall be drilled at
18 least thirty (30) feet below the bottom of said coal bed. With-
19 in this hole shall be placed a liner four inches larger than the
20 inside diameter of the said casing, and extending from the bot-
21 tom of said hole to at least thirty (30) feet above the mine roof.

22 A string of casing centrally guided by shoes or winged guides
23 shall be placed within the said liner, and the space between the
24 liner and the casing shall be filled with cement mortar, or pud-
25 dled clay, to the top of the liner.

26 To exclude water, the space between the said casing and the
27 wall of the hole, and immediately above the top of the liner, shall
28 be filled a distance of at least ten feet with cement mortar or
29 puddled clay.

30 (c) Where the coal is removed and the mine excavation is
31 accessible.

32 The method may be either as provided in the case of inac-
33 cessible mine excavations or as where the coal is in place; *pro-*
34 *vided*, that if the latter method is chosen the well operator shall,
35 at his own expense, provide a suitable retaining wall laid in ce-

36 ment mortar to retain the cement mortar or puddled clay about
37 the casing. This well shall extend from two feet below the mine
38 floor to the roof of the mine, and be of such size to retain at least
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39 two inches of puddled clay or cement mortar about the said
39-a casing.

40 The well operator shall, upon completion of the work of cas-
41 ing through a coal bed, make an affidavit signed by two men hav-
42 ing at least three years' experience in casing wells, as to the meth-
43 od of casing, and protecting the well, said affidavit to be filed
44 with the chief well inspector.

45 Under any of the above provisions the work of casing and
46 protecting from gas and water through the coal bed shall be com-
47 pleted before the well is drilled to a greater depth; and in the
48 event of any well being productive of oil or gas the space between
49 the said casing and the next string of such other casing as may be
50 left in shall remain open, the top being provided with a suitable
51 device to permit ventilation, and at the same time to prevent dirt
52 or debris from falling in or being thrown in, or the ventilating
53 opening from being readily closed.

Abandonment.

Sec. 4. The well operator when he purposes to abandon any
2 well shall send a written notice of his intention to the chief well
3 inspector, and the work of plugging the hole or pulling the
4 casing shall not proceed until the well inspector is present to see
5 that said plugging is done as prescribed by this act, except as
6 hereinafter provided.

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7 In case the well inspector fails to be present within three
8 days from receipt of notice the work may proceed, provided that
9 two men having experience of at least three years in plugging of
10 wells be present, and make affidavit, in duplicate, that the work
11 was done in accordance with the provisions of this act, said affi-
12 davits to be filed with the chief well inspector and made a record
13 of his office.

14 The well operator shall send to the chief well inspector with
15 the notice of abandonment a legally certified copy of the license
16 to drill, provided the well was drilled under the provisions of this
17 act.

18 If the well was drilled prior to the passage of this act, the
19 well operator shall send to the chief well inspector, with the notice
20 of abandonment, a description and plat showing the location of

21 the well as herein provided for in the application for license to
22 drill.

23 Every well upon abandonment must be plugged and filled
24 solidly and tightly from the bottom to the top as follows:

25 The hole must be filled with rock sediment, sand, clay or
26 other suitable material from the bottom of the well to a hard
27 and firm-stratum below the last string of casing set in above the
28 producing oil or gas sands. When the well inspector declares that
29 it is impracticable to fill the cavity in the lowest producing sand,
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30 then he shall permit the well operator to place plugs at the top
31 of the lowest producing sand, and fill as hereinafter specified.

32 In this firm, hard stratum three seasoned wood plugs of a
33 diameter equal to the diameter of the hole, and each of a length
34 of at least three feet, shall be driven into place. Above the third
35 plug ten (10) feet of clay must be placed and thoroughly tamped
36 down so as to prevent the passage of oil, gas or water.

37 Immediately below the seat of each and every string of casing
38 there shall be driven a seasoned wood plug as described, and all
39 spaces between wood plugs shall be filled solidly and tightly with
40 rock sediment, clay, sand or other suitable material, as the cas-
41 ing is withdrawn length by length. All plugs shall be driven in
42 place with proper drilling tools.

43 In the case of a well in which the outside casing has been
44 cemented, as heretofore provided, said outer casing may be cut
45 off at a point not less than fifty (50) feet above the coal bed and
46 removed; but, in any event, the hole shall be filled to the surface.

47 The location of the plugs herein provided for are made with
48 reference to the relative positions of the workable coal beds and
49 the gas and oil sands for the purpose of preventing the passage of
50 oil or gas into the workable coal beds, and of water into the oil and
51 gas sands, and if any well presents a variation in such relative
52 position of the said strata, such additional wood plugs as the

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53 well inspector may deem necessary shall be driven into place by
54 the well operator.

55 When the workable plugging and filling from bottom to top
56 has been completed, the well operator, or his authorized agent,
57 shall make a report in duplicate to the chief well inspector, upon
58 forms to be furnished by the well inspector, showing the date of
59 the completion of the well, the depths to the coal beds, the names
60 of and depths to all productive oil or gas measures, the total

61 depth of the well, the location and kind of all plugs and filling
62 used, and the method followed in placing the same.

63 If the well inspector has been present during the performance
64 of this work, he also shall sign the report to the chief well inspec-
65 tor. If the well inspector has not been present this report shall
66 be joint in by two men employed on the work as provided for in
67 this act.

68 When the coal is removed from around a well casing or liner,
69 the coal operator shall protect the same from corrosion and
70 mechanical injury, by a wall of suitable material, to retain two
71 inches of cement mortar between the said wall and the said casing
72 or liner: this protection shall extend from two feet below the mine
73 floor to the roof of the mine, except in the case of an abandoned
74 well which has been plugged and filled as prescribed in this act.

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Chief Inspector of Natural Gas and Petroleum Wells.

Sec. 5. There is hereby created the office of chief inspector
2 of natural gas and petroleum wells. The chief of the department
3 of mines is hereby made *ex-officio* chief inspector of natural gas
4 and petroleum wells.

5 The necessary traveling expenses and clerical and other
6 assistants of the chief well inspector shall be paid by the state,
7 and an office provided and equipped with suitable filing arrange-
8 ments.

9 The chief well inspector shall, before entering upon the dis-
10 charge of his duties, take oath that he will discharge his duties
11 with impartiality and fidelity to the best of his knowledge and
12 ability: but no person who is acting as manager or agent for any
13 oil or gas company, or any coal company, or who is interested in
14 operating any oil or gas well, or any coal mine, shall at the same
15 time act as chief well inspector under this act.

16 It shall be the duty of the chief well inspector to collect,
17 from each applicant for license to drill, an application fee of ten
18 dollars, as provided in section two, of this act; and the chief
19 well inspector shall at the end of every month pay into the state
20 treasury all moneys accruing from the payment of said applica-
21 tion fees.

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22 The chief well inspector shall be authorized to appoint field
23 and office assistants, whose salaries and expenses shall be borne
24 by the state.

25 An appeal from the decisions of any assistant may be made

26 to the chief well inspector.

27 It shall be the duty of the chief well inspector to carry out all
28 of the provisions of this act, and keep a complete record and pre-
29 pare for publication a yearly report of the wells drilled in the
30 state, together with their location, date of completion, depth, char-
31 acter of product, date of abandonment, name of owner, state-
32 ment of moneys collected in fees, and other information.

33 The well inspector shall receive and investigate all com-
34 plaints as to injury present or impending, due to lack of precau-
35 tion on the part of any well operator or coal operator. If he
36 finds the complaints against the coal operator to be well founded
37 he shall lay the facts before the state mine inspector.

38 In case of failure of the well operator to plug an abandoned
39 well, in accordance with the provisions of this act, it shall be
40 the duty of the well inspector to have the work performed by
41 contract, and to assess the costs against the well operator.

42 If the well inspector discovers any well being drilled, operat-
43 ed, or plugged contrary to the requirements of this act he shall
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44 order the workmen engaged on such well to cease work at once,
45 and shall not permit the work to be resumed until he is satisfied
46 that the law is complied with.

47 The well inspector shall determine the sufficiency of plats
48 for the purpose of accurately locating wells, and shall cause a
49 new survey of such location in case the available plat and descrip-
50 tions are unsatisfactory. This survey shall be paid for by the
51 applicant, unless it is shown that the original plat is correct, in
52 which case the cost of the new survey is to be borne by the state.

53 It shall be the duty of the chief well inspector to transmit
54 to the proper county clerk the duplicate of plats, descriptions,
55 applications and reports sent to him by well operators, and these
56 shall be recorded in a book kept specially for this purpose by the
57 county recorder.

58 To enable the well inspector to perform the duties imposed
59 upon him by this act, he shall have the right at all times to ap-
60 proach and examine any well in his district, and, with the author-
61 ity of the state mine inspector, to enter any mine affected; and
62 upon discovery of any violation of this act, or upon being in-
63 formed of such violation, he shall institute proceedings against
64 the person or persons at fault, under the provisions of the law
65 provided for such cases.

66 When a well is so located that it passes through a miin, or

67 near a mine, the well operator may appoint as his representative
68 a mining engineer or other competent person experienced in min-
69 ing operations, who shall, with the written permission of the chief
70 or district mine inspector, have the right to enter the mine at
71 such times as will not interfere with the operation of the mine.

Sec. 6. Any coal operator or well operator who neglects or
2 refuses to comply with the provisions of this act, or who violates
3 any of the provisions or requirements thereof, shall be deemed
4 guilty of a misdemeanor, and shall, upon conviction thereof in
5 the court of the county in which the misdemeanor was committed,
6 be punished by a fine or imprisonment at the discretion of the
7 court.

8 Each section of this act and every part thereof is hereby
9 declared to be an independent section, or part of a section, and if
10 any section or sub-section shall, for any reason, be held uncon-
11 stitutional, the validity of the remaining sub-section and sections
12 shall not be affected thereby.

13 All acts or parts of acts inconsistent herewith are hereby
14 repealed.

Senate Bill No. 354

A BILL to amend and re-enact chapter sixty-four of the acts of one thousand nine hundred and five, relating to the bureau of archives and history and establishing a legislative reference bureau.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-four of the acts of one thousand nine hundred and five be amended and re-enacted so as to read as follows:

Section 1. There shall be established a legislative, reference
2 bureau, in which bureau shall be collected for permanent pres-
3 ervation all valuable papers, and documents relating to the his-
4 tory of the state; also there shall be collected literature and in-
5 formation regarding all matters upon which the legislature may
6 be called to act, which information and literature shall be at the
7 service of the governor, other state officials and the members of
8 the legislature. In this bureau there shall be devised and adopt-
9 ed a systematic plan for the preservation and classification of all

10 state archives, and for the collection and filing of information
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11 upon all subjects which the legislature may be called upon to act,
12 and upon all subjects which the governor of the state and mem-
13 bers of the legislature may desire for legislative purposes, or for
14 the board of public works. This bureau shall have charge of
15 editing, printing, indexing and distributing the acts of the legis-
16 lature, and the journals of the senate and house of delegates, and
17 all legislative documents.

Sec. 2. The said bureau shall be a department of the state
2 government and shall occupy rooms provided therefor at the cap-
3 ital. It shall consist of a chief of bureau, to be appointed by the
4 governor, at a salary of four thousand dollars per annum, pay-
5 able monthly, out of the state treasury, upon proper warrants
6 drawn upon the auditor, and his term of office shall be eight
7 years. The chief of said bureau shall be a man experienced in
8 all lines of legislative service.

Sec. 3. The bureau shall be in charge of the chief. He
2 shall be the custodian of the collections in this bureau, and it
3 shall be his duty to carry into operation and full effect the pro-
4 visions of this act, and arrange for the publication of such matter
5 as the legislature may from time to time direct to be printed.

6 At each session of the legislature it shall be his duty to see
7 that the journals of both houses are corrected according to the
8 markings of the respective clerks thereof; that the official jour-
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9 nals are printed in accordance with the rules of the two houses,
10 and that the bound volumes of the journals for distribution
11 among the members and to others, as provided by law, are prop-
12 erly indexed and promptly published.

13 He shall also superintend the correction and printing of all
14 bills that are amended and have to be re-printed, when ordered
15 to their engrossment and third reading, as well as all enrolled
16 bills, after the proper corrections shall have been made. He
17 shall cause copies of all laws of a general and special nature
18 (when so ordered by the legislature) to be printed in signature
19 or advance sheet form, and mailed to all judges, prosecuting at-
20 torneys and circuit and county clerks throughout the state, and
21 to all newspapaers; and he shall co-operate with the clerks of the
22 two houses in preparing a convenient and suitable index for the
23 bound copies of the acts of the legislature, and assist in the
24 prompt publication of the same. During each session of the leg-

25 islature there shall be mailed from this department copies of
26 the senate and house journals, together with bills of a general
27 nature, to persons whose names may be furnished by the mem-
28 bers of the legislature, each member being entitled to submit a
29 list of fifteen names. The expense in connection with this ser-
30 vice shall be provided for in the general appropriation bill.

31 The chief of this department shall compile and edit each
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32 year a legislative hand book of West Virginia, containing brief
33 biographical sketches of the members of the legislature, a list of
34 the standing committees of both houses, a list of members and
35 officers of the two bodies, the constitution of the state, the rules
36 and joint rules of the senate and house of delegates and such sta-
37 tistical and other matter as may be of interest to the people of the
38 state. Each member shall be furnished free of charge with three
39 copies of the hand book.

40 After the final proofs of all departmental and other state
41 documents have been released to the printer, the chief of bureau
42 shall see that said documents are promptly issued, and in case
43 of unnecessary delay, shall report the same to the board of pub-
44 lic works. When not otherwise engaged the chief of bureau shall
44-a be subject to detail by the governor for any secretarial or other
44-b work that it would be proper for him to perform.

45 At the opening of each regular session of the legislature
46 there shall be appointed by the chief of bureau a sufficient num-
47 ber of bill editors, whose duty it shall be to edit and properly pre-
48 pare for the public printer all senate and house bills after they
49 have been ordered to their second reading.

50 A sufficient number of abstract clerks, who shall prepare
51 daily abstracts giving the status of all senate and house bills and
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52 joint resolutions, which abstracts shall be published immediately
53 following the journals of the respective houses each day.

54 A supervisor of printing and a sufficient number of assist-
55 ants, whose duty it shall be to see that all amendments to senate
56 and house bills, and the typographical errors are marked and
57 corrections thereof made in said bills before the same are enrolled,
58 Said supervisor and his assistants shall also have charge, under
59 the direction of the chief of the bureau, of the printing of en-
60 rolled bills, of advance copies of the acts, and of the corrected
61 journals of the two houses as provided for in the rules.

Any and all of the employes hereinbefore provided for shall be subject to assignment by the chief of the bureau to the work of head noting and indexing the acts of the legislature and indexing the journals of the two houses, when not otherwise employed, and their compensation shall be included in the legislative appropriation bill.

Sec. 4. The members of the senate and house of delegates at the beginning of each session shall elect a clerk of their body, who, in addition to their duties as clerks of the respective houses shall serve as members of the legislative reference bureau, and they shall co-operate with the chief of bureau in the legislative work, and shall assist him in preparing, indexing and distributing the journals of the respective bodies, and in preparing, head

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noting and indexing the acts, and in the distribution of the same; each of which clerks shall receive a salary of twenty-four hundred dollars per year, payable monthly out of the state treasury, upon proper warrants drawn upon the auditor.

All acts and parts of acts in conflict herewith are hereby repealed.

Senate Bill No. 222

[BY MR. GOODYKOONTZ.]

Introduced January 28, 1915. Reference to committee dispensed with, rules suspended and taken up for immediate consideration; constitutional rule dispensed with, read a first time and ordered to a second reading.

A BILL fixing the time for holding the terms of the circuit court in the counties of Mingo and Wyoming, for the twenty-second judicial circuit of this state.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That section two of chapter ten, acts of the legislature of one thousand nine hundred and eleven, be amended and re-enacted to read as follows:

There shall be held in each year in the county of Mingo at least four terms of the circuit court, and in the county of Wyoming at least three terms of the circuit court, and the terms of the

7 several courts for the counties aforesaid shall commence and be
8 held as follows:

9 For the county of Mingo, on the first Monday in January,
10 April, July and October of each year.

11 For the county of Wyoming, on the second Monday in Feb-
12 ruary, May, August and November of each year.

13 Special terms of said court may be called and held as pro-
14 vided by general law.

Sec. 2. All acts and parts of acts inconsistent with this
2 act are hereby repealed.

Senate Bill No. 196

[BY MR. HOGG.]

Introduced January 26, 1915. Referred to the Committee on Edu-
cation; February 1, reported back with the recommendation that it
do pass; rules suspended, taken up out of its order for immediate
consideration; read a first time and ordered to a second reading.

A BILL to abolish the independent school district of Fayetteville,
in the county of Fayette.

Be it enacted by the Legislature of West Virginia:

First. That an act of the Legislature, entitled "An act to
2 create the independent school district of Fayetteville, in the county
3 of Fayette, passed by the legislature of West Virginia, February
4 twenty-first, one thousand eight hundred and eighty-seven, and
5 which constitutes chapter nineteen of the acts of the legislature
6 of one thousand nine hundred and seven, is hereby repealed, and
7 annulled, and the said independent school district of Fayette-
8 ville is hereby abolished, the same to take effect July first, one
9 thousand nine hundred and fifteen.

Second. The board of education of the independent free
2 school district of Fayetteville shall conduct the schools in said
3 independent district during the school year ending June thirtieth,
4 one thousand nine hundred and fifteen, as in the manner provided
5 by the act creating said independent school district, and collect
6 all the levies and moneys, sue and be sued in reference to any con-
7 tract, or for the collection of any levies or obligations due to said

8 district prior to July first, one thousand nine hundred and fifteen.

Third. That the school building, and school grounds, and
2 other property, including personal property and school
2a equipment; belonging to said independent school district, shall
3 on and after July first, one thousand nine hundred and fifteen, be-
4 come, and the title thereto be vested, in the board of education of
5 Fayetteville district in said Fayette county; and the board of
6 education of said Fayetteville district shall appoint trustees for
7 the said school as one of the sub-districts of said Fayetteville dis-
8 trict; and that a levy for the support of said schools shall be laid
9 upon the entire sproperty of the district of Fayetteville, in said
10 county, for the school year beginning July first, one thousand nine
11 hundred and fifeen.

Senate Bill No. 209

[By MR. McABOY.]

Introduced January 27, 1915. Referred to the Committee on Banks and Corporations. February 6, reported back with the recommendation that it do pass. February 11, taken up in regular order for consideration, read a first time by its title and ordered to a cesond readin. February 13, read a second time; amended and ordered to its third reading.

A BILL to amend and re-enact section one of chapter seventeen of the code of West Virginia relating to state depositories.

Be it enacted by the Legislature of West Virginia:

That section one of chapter seventeen of the code of West Virginia be amended and re-enacted so as to read as follows:

Sec. 1. The board of public works may designate any na-
2 tional bank or banks, and any bank or banking company chartered
3 pursuant to the laws of this state, with paid up capital stock of
4 not less than twenty-five thousand dollars, as depositories of money
5 belonging to the state and shall contract with said banks for the
6 payment of interest thereon at a rate of not less than two per cent.
7 per annum for such time as any deposit or part thereof may re-
8 main in such banks. Before allowing any money to be deposited
9 with them, such board shall require said depositories to give bond
10 with good security, or to deposit securities to be approved by such

11 board. The penalty of such bond shall be at least the sum of twenty
12 thousand dollars or more, and the value of such securities deposited
13 shall also be the sum of twenty thousand dollars or more. The bond
14 shall be payable to the state of West Virginia, conditioned for the
15 prompt payment whenever lawfully required of any state money

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16 or part thereof that may be deposited with such banks, and such
17 bond may be either with personal security or be made by a surety
18 company authorized by law to do business in the state of West
19 Virginia. When a bank shall deposit securities instead of giving
20 a bond, the same shall be legally placed with the treasurer of the
21 state of West Virginia and shall be so endorsed or made payable
22 that the treasurer can sell or dispose of the same without any ac-
23 tion on the part of the depositor being necessary or required, in
24 the event that the state of West Virginia shall be required to real-
25 ize on such securities in order to collect the amounts of money so
26 deposited in such bank, with any accrued interest thereon. Every
27 bond given under the provisions of this section shall be renewed
28 at least every two years from its date, and shall be recorded by the
29 secretary of state in a book kept in his office for that purpose, and
30 a copy of such bond, or record thereof, certified by such secretary
31 shall be *prima facie* evidence of the execution and contents of such
32 bond in any suit or legal proceeding. The amount of deposits
33 in any bank shall at no time exceed the penalty of said bond or
34 the value of the securities so deposited. All such bonds and securi-
35 ties shall be examined by the board of public works at least once
36 in every three months, and whenever the bond is deemed insuffi-
37 cient or such securities are deemed insufficient by the board of pub-
38 lic works, additional bond or additional securities shall be required.

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39 Any depository violating any of the provisions of this act
40 shall be discontinued as a state depository.

Senate Bill No. 44

[BY MR. GREGORY.]

In troduced January 18, 1915. Referred to the Committee on
the Judiciary. February 2, reported back with the recommendation
that it do pass. February 11, rules suspended, taken up out of its

order for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact chapter thirty-one of the code annotated of one thousand nine hundred and six, entitled an act for the "sale of real estate for taxes, forfeiture for non-payment and non-assessment of taxes; transfer of title vested in the state, redemption thereof, deed to purchaser," and entry for assessment.

Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be the duty of every owner of land to have
2 it entered on the land books of the county in which it is situated,
3 and to cause himself to be charged with the taxes thereon and pay
4 the same. When, for any five successive years after the year one
5 thousand eight hundred and sixty-nine, the owner of any tract
6 of land containing one thousand acres or more, shall not have been
7 charged on such books with a state tax on said land, then by oper-
8 ation of law and without any proceedings therefor, the land
9 shall be forfeited and the title thereto vested in the state. But,
10 if for any one or more of such five years the owner shall have
11 been charged with state tax on any part of the land, such part
12 thereof shall not be forfeited for such cause. And any owner of
13 land so forfeited, or of any interest therein, at the time of the

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14 forfeiture thereof, who shall then be an infant, married woman
15 or insane person, may, until the expiration of three years after
16 the removal of such disability have the land, or such interest
17 therein, charged on such books, with all state and other taxes that
18 shall be, and but for the forfeiture would be chargeable on the
19 land or interest therein for the year one thousand eight hun-
20 dred and sixty-three, and every year thereafter, with interest, at
21 the rate of ten per cent per annum, and pay all taxes and in-
22 terest thereon for all such years, and thereby redeem the land or
23 interest therein or any part thereof; *provided*, such right to re-
24 deem shall, in no case, extend beyond twenty years from the
25 time such land was forfeited. And when for any five successive
26 years since the ninth day of April, one thousand eight hundred and
27 seventy-three, the owner of any tract or lot of land, less in quanti-
28 ty than one thousand acres, shall not have been charged on such
29 books with state tax on said land, then by operation of law and
30 without any proceedings therefor, the land shall be forfeited and
31 the title thereto vested in the state. But if, for any one or more

32 of such five years, the owner shall have been charged with state
33 tax on any part of the land, such part shall not be forfeited for
34 such cause. If the owner of any such tract or lot of land, or any
35 person having an interest therein, shall at the time of the forfei-
36 ture thereof, be an infant, married woman or insane person, he
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37 may redeem the said land or interest therein, or any part there-
38 of, in the same manner and within the same time as is herein pro-
39 vided in regard to tracts of one thousand acres or more. A record
40 of all real estate so forfeited, which shall come to the knowledge
41 of the auditor, shall be kept in his office, in which shall be shown
42 the name of some former owner, the quantity or supposed quanti-
43 ty, and local or other description of the real estate, for what years
44 the owner was not charged with the taxes, and when the real estate
45 became forfeited. Such record shall be *prima facie* evidence that
46 the owner was not for such years charged with the taxes on such
47 real estate, and that he did not cause it to be entered and charged
48 with such taxes as aforesaid, and that the real estate was for-
49 feited and vested in the state at the time specified. In order to
50 enable the auditor to make such record, it shall be the duty of the
51 clerk of the county court of each county in which such real estate
52 ought to have been entered and charged with taxes as aforesaid,
53 upon discovering any such failure, to certify to the auditor all
54 the facts in relation thereto.

Sec. 2. All title to lands in this state heretofore forfeited, or
2 treated as forfeited, waste and unappropriated or escheated to the
3 state of Virginia, or this state, or purchased by either of said
4 states at sales made for the non-payment of taxes and become ir-
5 redeemable, or hereafter forfeited or treated as forfeited, or es-

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6 cheated to this state, or purchased by it and become irredeemable,
7 not redeemed, released or otherwise disposed of, vested and re-
8 maining in this state, shall be and is hereby transferred to and
9 vested in any person (other than those for whose default the
10 same may have been forfeited or returned delinquent, their heirs
11 or devisees) for so much thereof as such person has or shall have
12 had actual continuous possession of, under color or claim of title
13 for ten years, and who, or those under whom he claims, shall have
14 paid the state taxes thereon for any five years during such posses-
15 sion; or if there be no such person, then to any person (other
16 than those for whose default the same may have been forfeited or
17 returned delinquent, their heirs or devisees, for so much of said

18 land as such person shall have title or claim to, regularly derived
 19 mediately or immediately from or under a grant from the com-
 20 monwealth of Virginia, or this state, not forfeited, which, but for
 21 the title forfeited would be valid, and who, or those under whom
 22 he claims, has or shall have paid all state taxes charged or charge-
 23 able thereon for five successive years after the year one thousand
 24 eight hundred and sixty-five; or from the date of the grant, if it
 25 shall have issued since that year; or if there be no such person as
 26 aforesaid, then to any person (other than those for whose default
 27 the same may have been forfeited or returned delinquent, their
 28 heirs or devisees), for so much of said land as such person shall
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29 have had claim to and actual continuous possession of, under color
 30 of title, for any five successive years after the year one thousand
 31 eight hundred and sixty-five and have paid all state taxes charged
 32 or chargeable thereon for said period.

Sec. 3. All lands in this state, waste and unappropriated, or
 2 heretofore or hereafter for any cause forfeited or treated as forfeited
 3 or is escheated to the state of Virginia, or this state, or purchased by
 4 either and become irredeemable, not redeemed, released, trans-
 5 ferred, or otherwise disposed of, the title whereto shall remain in
 6 this state till such sale as is hereinafter mentioned be made, shall
 7 by proceedings in the circuit court of the county in which the
 8 lands are situated, be sold to the highest bidder.

Sec. 4. The former owner of any such land shall be entitled
 2 to receive the excess of the sum for which the land may be sold
 3 over the taxes charged and chargeable thereon, or which, if the
 4 land had not been forfeited, would have been charged or charge-
 5 able thereon since the formation of this state, with interest, at the
 6 rate of twelve per centum per annum, and the cost of the proceed-
 7 ings, if his claim be filed in the circuit court that decrees the sale
 8 within two years thereafter.

Sec. 5. Any person owning or claiming any tract of land
 2 which has not been entered on the land books of the proper county,
 3 or if so entered, has for any cause thereafter been omitted there-
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4 from, may have any part thereof entered on the books of the
 5 proper assessor and assessed with taxes thereon, and pay the same,
 6 as he might do as to the whole tract, specifying the part of the said
 7 land so entered and assessed, or on which the taxes are so paid, by
 8 having the same surveyed and laid off and a plat and description
 9 thereon entered to and recorded by the clerk of the county court.

10 Any such assessment and payment as to such part of any land
11 shall have the like effect as to the same as if it had applied to the
12 whole tract, but such entry, assessment or payment shall not pre-
13 vent a sale or forfeiture of such residue for the failure to cause the
14 same to be entered on the land books and charged with taxes.

Sec. 6. When real estate has been or shall be entered on the
2 land books of any county or district or municipal corporation for
3 any year, and thereon charged with taxes and does not appear in
4 the list of lands and lots or real estate in such county delinquent
5 for non-payment of taxes thereon for such year, upon proper evi-
6 dence thereof, in the absence of rebutting evidence, it shall be pre-
7 sumed that such tax was paid before the time when such list was
8 required to be made.

Sec. 7. The auditor, under the direction of the governor,
2 and at the expense of the state, shall adopt proper measures to
3 obtain accurate and authentic returns (where he is not already in
4 possession of such returns) of all real estate in this state which,
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5 since the tenth day of March, one thousand eight hundred and
6 thirty-two, has been returned delinquent for non-payment of taxes
7 to the state of Virginia, or this state; except real estate which, be-
8 fore the twentieth day of June, one thousand eight hundred and
9 sixty-three, was returned delinquent for the non-payment of taxes,
10 to the state of Virginia, where the taxes, exclusive of interest or
11 damages, do not exceed twenty dollars.

Sec. 8. Of the real estate mentioned in the preceding sec-
2 tion, except as therein otherwise provided, and of all real estate
3 hereafter returned delinquent for non-payment of taxes, a record
4 shall be kept by the auditor in his office. And at any time before
5 the lists provided for in section nine of this act have been certified
6 and delivered by the auditor to the sheriff of the county in which
7 such real estate is situated, any person having the right to redeem
8 the same may do so by paying to the sheriff the amount of taxes,
9 costs, etc., on any such real estate as provided in section eleven of
10 this act.

Sec. 9. On or before the thirty-first day of December of each
2 year, the auditor shall cause to be delivered to the sheriff and clerk
3 of the county court for every county, two lists, (one for each re-
4 spectively) of the real estate therein, which at the time said lists
5 are made out, shall have been returned delinquent for the non-
6 payment of taxes thereon for the preceding year, and not redeem-

7 ed from his office, with a statement of the several amounts due for
8 state and state school taxes; county taxes for all purposes; school
9 district and independent school district taxes; other district taxes
10 for all other purposes, and municipal corporation taxes, city, town
11 or village taxes for all purposes, on each tract or lot for the preced-
12 ing year and charges, if any, on each amount from the first day of
13 January in the year succeeding that in which said taxes were
14 levied until the first day of January in the year succeeding that
15 in which such lists are delivered as aforesaid to the sheriff and
16 clerk of the county court, at the rate of six per cent per annum
17 added thereto, from the first day of January until the first Monday
18 in June and ten per cent per annum from the first Monday in
19 June until the first day of January.

Sec. 10. The clerk of the county court shall provide, at the ex-
2 pense of the county, a substantially bound record, to be labelled "de-
3 linquent land book for year 19..," and keep the same as other
4 records of his office, into which he shall transfer each tract or lot of
5 real estate found and contained in the delinquent list aforesaid de-
6 livered to him by the auditor, from the name of the owner to that
7 of the name of the state of West Virginia, having a space or col-
8 umn therein showing the name of the owner in alphabetical order,
9 and classified by magisterial districts where said tract or lot
10 lies, and municipal, city, town or village taxes, giving the name
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11 of the city, town or village for which the taxes have been assessed.
12 Said record shall show the various several amounts of taxes due,
13 and the total thereof in the manner shown on the land books, hav-
14 ing a space under a proper heading for the endorsements of
15 the redemption thereof. The clerk, upon receiving the duplicate
16 receipt from the sheriff, as hereinafter provided, shall immediately
17 endorse on the aforesaid record, in its proper place, the amount
18 of taxes paid, for what year and the date of payment. When
19 all the taxes, interests, costs, fees, etc., have been fully paid to
20 the sheriff, as shown by the duplicate receipts, he shall, on or
21 before the first day of January of each and every year, certify
22 to the assessor for transfer the title to such tract or lot of real
23 estate, so returned delinquent and redeemed as herein provided on
24 the land book to the name of the owner thereof as shown by the
25 land records. On or before the fifteenth day of January of every
26 year, the clerk from the records of his office, shall make up a list
27 containing the names of the persons whose property has been re-

28 deemed during the previous year, in whole or in part, showing the
29 amount paid thereon, and forward the same to the auditor of the
30 state.

Sec. 11. The sheriff, upon the receipt of the aforesaid de-
2 linquent list from the auditor, shall keep the same in his office,
3 and shall receive payment in whole or in part of the taxes shown

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4 due for any given year, together with interest calculated from
5 the first day of January of the year succeeding the year for which
6 such property was returned delinquent to the date of payment at
7 the rate of ten per cent, and the additional fees, etc., charge and
8 chargeable. applying the payment, if not a complete redemption,
9 to the oldest taxes, etc., due, and he shall make duplicate receipts
10 therefor, showing the amount paid, the property paid on, the year
11 paid for and the date of payment, and shall deliver a receipt to
12 the owner, or some one for him, and a duplicate receipt he shall
13 deliver, at the close of the day's business, to the clerk of the
14 county court. The sheriff shall keep a separate account of all
15 money received on account of delinquent taxes as herein provided,
16 and shall on the thirty-first day of December of each year, make
17 settlement with, and pay over the same to the auditor of the
18 state of West Virginia.

Sec. 12. The assessor of the county shall assess and extend
2 the taxes on all the real estate returned delinquent for non-pay-
3 ment of taxes and found in the record kept by the clerk as pro-
4 vided in section ten of this act, for each year, the same as other
5 real estate is assessed and extend the taxes thereon; *provided that*
6 no tax ticket shall be made out on such real estate against the
7 owner or the state of West Virginia.

Sec. 13. There shall be a lien on all real estate for the taxes
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2 assessed thereon, from the day fixed by law for the commence-
3 ment of the assessment of such taxes, in each year, and the in-
3-a terest upon such taxes, as provided in section nine of this act,
4 until paid; and also in cases of delinquents, for the additional
5 legal costs, fees, etc. After the expiration of five years from
6 the first day of January of the year next succeeding the month of
7 June in which real estate is returned delinquent for the non-
8 payment of taxes, the auditor shall institute a suit in equity, by
9 and through the commissioner of school lands, in the name of the
10 state of West Virginia, to enforce the lien before mentioned for
11 any taxes, costs, fees, etc., unpaid, whether such lien commenced

12 heretofore or that may hereafter arise. Such suit shall be brought
13 and prosecuted in the circuit court of the county in which the
14 real estate is situated or in which it has been heretofore assessed
15 for taxes, and in such suit the land on which the taxes were as-
16 sessed shall be sold to the highest bidder, for cash, and all taxes
17 thereon, to the day of sale, with the interest accrued thereon, and
18 the costs, fees, etc., theretofore charged thereon, paid from the
19 proceeds of the sale. The recovery in such suit shall be by the
20 state, for its own use for taxes due it, and for the use of the
21 counties, districts, school districts, independent school districts,
22 municipal corporations, cities, towns and villages for taxes due
23 them. In its decree of distribution the court shall direct the

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24 payment, out of the proceeds of the sale, of costs of suit, includ-
25 ing reasonable compensation not exceeding ten per cent of the
26 amount collected, to the commissioner of school lands prosecuting
27 the suit, in addition to the docket fee, and after such payments,
28 the payments of the taxes and interest thereon and costs, fees,
29 etc., out of such proceeds, into the treasury of the state. The
30 surplus, if any, of such proceeds, shall be paid to the owner of the
31 property, his heirs, assigns, devisees or personal representative.
32 The taxes and interest, other than the state and state school
33 taxes, with the interest thereon, shall be paid out by the auditor
34 as provided by section fifteen of this act. The defendant or de-
35 fendants to such suit shall be the person or persons in whose
36 name or names the land was returned delinquent, the name of the
37 owner or owners as shown by the land, deed and will book of
38 the county in which the land is situate, the name of any trustee,
39 mortgagee, beneficiary and vender's lien holder as shown by the
40 deeds of trust, mortgage and deed books of the county, and if
41 any of such persons be dead, then his personal representative;
42 provided, that the name of any trustee, mortgagee, beneficiary or
43 vender's lien holder in any deed of trust, mortgage or deed book
44 which has been recorded for more than twenty years prior to
45 the institution of such suit may be omitted and the personal
46 representative of any person under disability. If any of the
47 defendants do not reside in the county in which the land is sit-
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48 uated, but are known to reside in some other county of this state,
49 process shall be sent to the proper officer of the county wherein
50 they reside to be executed. Upon affidavit filed with the clerk
51 that any of the defendants are non-residents of this state, and that

52 due diligence has been used to ascertain in what county in this
 53 state any of the defendants reside, without effect, then an order of
 54 publication shall be entered by the clerk against such defendants.
 55 The order of publication shall state the style of the suit, the
 56 name of the court in which the suit is pending, the names of the
 57 defendants against whom the order of publication is taken,
 58 "et al", omitting the names of those served, and in as concise
 59 form as possible the object and purpose of the suit. Such order
 60 shall be published for four successive weeks in some newspaper
 61 published in the county, and shall be posted at the front door of
 62 the courthouse for a like period.

63 *Provided, however,* that any person shall have the right to
 64 redeem any tract or lot of real estate at any time prior to the
 65 final confirmation of sale, by payment of the taxes for all pur-
 66 poses due, the interest thereon, fees, charges, etc., and the proper
 67 pro rata part of the costs and expenses of the suit to the commis-
 68 sioner of school lands. And the said commissioner shall file a
 69 certified list of the lots or tracts of lands so redeemed from him
 70 with the clerk of the county court.

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Sec 14. The deed to any real estate sold under the pro-
 2 visions of this act shall be in manner and form as follows, to-wit:

3 This deed, made this day of, 19....,
 4 between
 5 commissioner of school lands, of the county of
 6 of the first part, and of the
 7 second part.

8 Whereas, the said commissioner of school lands, in pursuance
 9 of authority vested in him by a decree of the circuit court of the
 10 county of in a suit in chancery
 11 therein pending, in which the state of West Virginia was plaintiff,
 11-a and, were defendants, did
 12 sell the real estate hereinafter mentioned and conveyed according
 13 to the terms and conditions required by said decree, at which sale
 14 the said became the purchaser for
 15 the sum of \$..... And, whereas, the court, by a subse-
 16 quent decree, entered in said cause on the day of,
 17 19...., confirmed the said sale and directed a deed for the real
 18 estate to be made to the said by
 19 the said commissioner of school lands.

20 Now, therefore, this deed witnesseth: That the said
 21, commissioner of school lands,

22 as aforesaid, doth grant unto the said , a
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23 certain parcel of real estate, situate in the district of ,
24 and county of , West Virginia, and bounded
25 and described as follows: (here insert boundaries, description and
26 quantity as near as may be.)

27 Witness the following signature and seal.

28 (Seal)

29 Commissioner of School Lands.

Sec. 15. The fees to be charged for the services rendered in
2 sections nine, ten, eleven, twelve and thirteen, shall be as follows:

3 The auditor, for each tract or parcel of land returned delin-
4 quent, one dollar; the clerk of the county court for each transfer
5 on the land books, twenty-five cents, and for making out lists for
6 the auditor, two dollars; the sheriff shall receive the same com-
7 missions as provided by law for the collection of taxes. Said fees
8 shall be paid by the delinquent owner or some one for him, in
9 addition to all taxes and interest due and unpaid. All fees pro-
10 vided for in this act shall be covered into the state treasury as
11 other moneys due the state.

Sec. 16. When such county, school district, independent
2 district and other district taxes, and municipal corporation taxes,
3 or any of such taxes and interest are paid into the treasury as
4 aforesaid, the auditor shall draw his warrant upon the treasury,
5 payable to the sheriff of the proper county, for all the taxes so

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6 paid in for county, school district, independent school district, and
7 other district purposes, specifying the amount due for each of
8 such purposes, and to the proper collecting officer of every such
9 municipal corporation for the corporation taxes so paid into the
10 treasury; and every such sheriff and collecting officer of such cor-
11 poration, shall account for any pay over such taxes and interest in
12 the same manner as the other taxes coming into his hands by
13 virtue of his office.

Sec. 17. Any infant, married woman or insane person, whose
2 real estate may have been so sold during such disability, may re-
3 deem the same by paying to the purchaser, his heirs or assigns,
4 within one year after the removal of the disability, the amount
5 for which the same was sold, with the necessary charges incurred
6 by the purchaser, his heirs or assigns, in obtaining the title under
7 the sale, and such additional taxes on the estate as may have been
8 paid by the purchaser, his heirs or assigns, and the interest on

9 the said items at the rate of six per centum per annum for the
10 time the same were paid. If any such person own an undivided
11 interest in the real estate so sold, he may redeem such interest in
12 like manner, and within the same time, by paying such proportion
13 of the purchase money, charges, taxes and interest, as his interest
14 in the premises is to the whole tract or part sold; but he shall not
15 have the right to redeem more than his own undivided interest.
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16 Upon such payment, within one year after the removal of such
17 disability, the purchaser, his heirs or assigns, shall at the cost of
18 the original owner, his heirs or assigns, convey to him or them,
19 by deed, without warranty, the real estate so redeemed, except as
20 follows: If improvements have been made on the said real estate
21 since the date of the deed therefor, and before the offer to redeem
22 the same under the provisions of this section, the original owner
23 shall pay to the person holding the legal title to said real estate
24 at the time of such offer, the then value of all such improve-
25 ments, after deducting therefrom the value of the use of said real
26 estate without the improvements, from the date of said deed to
27 the date of such offer. If the parties cannot agree on the amount to
28 be paid, either of them may file his petition, after ten days notice
29 in writing to the other, of his intention to do so, in the circuit
30 court of the county in which the real estate is, to have the proper
31 account taken by a commissioner to ascertain the amount, if any,
32 to be paid by such original owner. Upon the filing of such petition
33 the court shall make an order referring the same to a proper com-
34 missioner, who shall, with all reasonable dispatch, ascertain and
35 report to the said court what sum, if any, such original owner must
36 pay to redeem the said real estate, which report, if confirmed, shall
37 be final between the parties. Upon the payment or tender of the
38 sum, if any, so ascertained by the commissioner, to the person then

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39 holding the legal title to said real estate, he shall, as hereinbefore
40 provided, convey the same to the said original owner; and upon his
41 failure or refusal to do so, the court may appoint a commissioner
42 to execute such deed, who shall execute the same accordingly.

Sec. 18. If any of the officers mentioned in this act fail or
2 refuse to perform any duty required by this act, he shall, for every
3 such offense, forfeit to the state fifty dollars.

Sec. 19. Deeds for real estate sold for the non-payment of
2 the taxes thereon, before this chapter as amended takes effect, shall
3 be made, and real estate heretofore sold shall be redeemed under,

4 and be governed in all respects, by the provisions of this chapter as
5 amended.

Sec. 20. All real estate upon which taxes are levied and as-
2 sessed, for state, county, district, school district, independent
3 school district, municipal corporation, city town and village, shall
4 be returned delinquent on the first Monday of June of each and
5 every year if the same are not paid on or before that date.

Sec. 21. All acts or parts of acts in conflict with this act,
2 or any part thereof are hereby repealed.

Senate Bill No. 230

[BY MR. KUMP.]

Introduced January 28, 1915. Referred to the Committee on
Immigration and Agriculture. February 2, reported back with the
recommendation that it do pass. February 4, rules suspended, taken
up out of its order for consideration, read a first time and ordered
to a second reading.

A BILL to provide for the incorporation of the West Virginia State
Horticultural Society, and defining the powers, rights and privi-
leges of the same.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be and hereby is established a state
2 board, to be known as the West Virginia State Horticultural
3 Society, which shall be a corporation, and as such and to the
4 same is granted all the privileges, powers and rights of corpora-
5 tions under the general laws of this state.

Sec. 2. The object and purposes of this society shall be to
2 foster and encourage the horticultural interests of this state, to
3 hold public meetings in the several sections thereof for the pre-
4 sentation of reports, papers and discussions dealing with all
5 phases of horticulture in the state; to hold horticultural exhibits,
6 and to offer and pay premiums in order to encourage the produc-
7 tion of better horticultural products; to organize county and local
8 horticultural societies, and to encourage such county or local
8-a horticultural societies by assisting them in holding horticultural
9 meetings and exhibits; to publish bulletins and reports; to pro-
10 mote the horticultural interests of the state; and to promote the

11 development of horticulture, in all its phases, in such manner as
12 the said society may direct.

Sec. 3. For the purpose of carrying into immediate effect
2 the objects above stated, the following persons who constitute the
3 present officers and directors of said society shall be the board of
4 directors of the West Virginia State Horticultural Society: San-
5 ford H. Fulton, president; Newton F. Law, vice-president; Luther
6 F. Sutton, secretary; Huntley H. Hoffman, treasurer; and in
7 them and their successors, when duly elected as hereinafter pro-
8 vided, shall be vested the rights and powers of this corporation.

Sec. 4. It shall be the duty of the above board of directors
2 to adopt and publish the present constitution and by-laws of the
3 West Virginia State Horticultural Society for its government,
4 and when so adopted and published it shall not be altered or
5 amended except by a two-third vote of the members present at
6 the annual meeting; *provided*, that such amendment shall have
7 been submitted to the secretary at least sixty days preceding such
8 a meeting and copies of such amendments shall have been mailed
9 by him to all members at least thirty days before such annual
10 meeting of the society.

Sec. 5. This society shall hold at least one annual meeting
2 and one summer meeting at such time and place as the board of
3 directors may determine. At the annual meeting held in the
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4 odd years the society shall elect a president and vice-president and
5 secretary and a treasurer; which officers above enumerated shall
6 constitute a board of directors of the society in succession to those
7 named above; said officers shall serve without pay except that
8 their actual traveling and other necessary expenses at the annual
9 and summer meetings and at other meetings of the board of di-
10 rectors, which shall not exceed two in any one year; except that
11 by vote of the society the secretary may receive such compensation
12 as the society may determine. The treasurer shall give bond in
13 such penalty as the board of directors may prescribe, which bond
14 shall be filed with the secretary of state, and he shall receive all
15 money belonging or appropriated to this society, and disburse the
16 same under the order of the board upon vouchers signed by the
17 president and secretary, and settle his or her accounts annually.

Sec. 6. The appropriations made in chapter three, section
2 nine, acts of one thousand nine hundred and thirteen, and all sub-

3 sequent appropriations made for this society shall be available for
4 its use as provided in section five in this act.

Sec. 7. The board of directors of said society shall submit
2 an annual report to the governor, which shall contain a complete
3 report of the proceedings and activities of said society, and a state-
4 ment of all receipts and expenditures certified by the treasurer of
5 said society and by the state auditor. This report shall be printed

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6 by the state printer in such manner as may be prescribed by the
7 governor for the use of the society.

Sec. 8. All charges against any appropriations for the State
2 Horticultural Society incorporated by this act shall be upon prop-
3 erly itemized vouchers, as may be prescribed by the state board of
4 control.

Senate Bill No. 68

[BY MR. HATFIELD.]

Introduced January 18, 1915. Referred to the Committee on
Claims and Grievances. January 28, reported back with the recom-
mendation that it do pass. February 5, taken up in regular order,
read a first time and ordered to a second reading.

A BILL requiring the plat of a tract of land sub-divided into lots to
be recorded, and providing a penalty for the failure to record,
and the method of collecting and distributing the penalty.

Be it enacted by the Legislature of West Virginia:

Sec. 1. When any tract or parcel of land within the limits
2 of any county of the state of West Virginia, which has been or
3 shall be hereafter sub-divided into lots, and any lot or lots have
4 been sold from the tract or parcel of land so divided according
5 to said plan or plat of sub-division, without said plat of sub-di-
6 vision having been recorded, it shall be the duty of the owner of
7 said tract of land, or the legal representatives thereof, authoriz-
8 ing said plat or plan of sub-division of such tract of land to be
9 laid out, to record said plat of such sub-division in the office of the
10 clerk of the county court of the county wherein such land so di-
11 vided is situate, upon sixty days' notice to record the same from
12 the clerk of the county court of the county wherein such land so
13 divided is situate; or upon a notice from any person owning a

14 lot or lots in any such tract of land or parcel of real estate so di-
 15 vided. If such owner, or owners, or the legal representatives

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16 thereof shall fail to cause said plat of said sub-division of said
 17 tract of land as aforesaid to be recorded in said office, such owner
 18 or owners, or the legal representatives thereof, shall forfeit and
 19 pay the sum of one hundred dollars for each failure to record such
 20 plat of such tract or parcel of land. Said sum or sums to be re-
 21 covered as debts of like amount, or by law recoverable at the suit
 22 of any party or parties giving such notice, or the clerk of the coun-
 23 ty court of the proper county before any justice of the peace in
 24 and for said county. The party bringing such suit shall be en-
 25 titled to one-half of the amount so recovered and the other half
 26 shall go to the road fund of said county.

Senate Bill No. 278

[BY MR. McABOY, BY REQUEST.]

Introduced Feb. 4th, 1915. February 15th, referred to the Com-
 mittee on Medicine and Sanitation; February 12th, reported back
 with recommendation that it do pass; February 20th, rule suspended,
 read first time and ordered to a second reading.

A BILL to amend and re-enact sections one, three, six, seven and
 twenty-four of chapter eight of the acts of the Legislature of
 West Virginia, one thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

That sections one, three, six, seven and twenty-four of chapter eight
 of the acts of the Legislature of West Virginia, one thousand nine
 hundred and thirteen be amended and re-enacted so as to read as fol-
 lows:

Section 1. The governor shall appoint a hotel inspector to
 2 hold office at the will and pleasure of the governor; he shall before
 3 entering upon the duties of his office, take the oath of office pre-
 4 scribed by the constitution of the state, and shall give bond in the
 5 penalty of five thousand dollars, which when approved by the
 6 governor, shall be filed and recorded in the office of the secre-
 7 tary of state. Said hotel inspector shall receive a salary of twen-
 8 ty-one hundred dollars per annum, and actual traveling expenses

9 not to exceed fifteen hundred dollars per annum, and he shall
10 have one stenographer whose salary shall not exceed nine hundred
11 dollars per annum. And such salaries and expenses shall be paid

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12 monthly out of the fund accruing from the inspection fees pro-
13 vided for in this act.

Sec. 2. The state board of health shall make such rules
2 and regulations not inconsistent with law as in their judgment
3 are necessary to carry out the intent of this act, which rules and
4 regulations shall take effect when approved by the attorney gen-
6 eral and the governor. The said hotel inspector shall assist in
7 the enforcement of any orders made by the state board of health,
8 and of the laws of the state respecting pure food, so far as they
9 relate to hotels and restaurants.

Sec. 3. For the purpose of this act, every building kept,
2 used as, or advertised as, or held out to the public to be a place
3 where sleeping accommodations are furnished to the public, wheth-
4 er with or without meals, and payment required therefor shall be
5 deemed a hotel; and every place where food without lodging is
6 furnished to guests and payment required therefor, shall be deemed
7 a restaurant

Sec. 4. Every person, firm or corporation engaged in the
2 business of conducting a hotel or a restaurant, shall on or before
3 the first day of July, one thousand nine hundred and thirteen,
4 make application as hereinafter prescribed to the hotel inspec-
5 tor for inspection and a certificate thereof, and such inspector, if
6 he shall be unable to make inspection of such hotel or restaurant
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7 within thirty days, shall issue to such applicant a temporary per-
8 mit which shall hold good until a regular inspection is made.
9 After said first day of July, one thousand nine hundred and thir-
10 teen, every person, firm or corporation proposing to conduct a
11 hotel or restaurant, shall apply to the hotel inspector for an in-
12 spection and certificate thereof and said inspector shall inspect
13 the premises described in such application as soon thereafter
14 as may be; but if it is impracticable to do so within ten days
15 after receiving such application, said inspector may issue to such
16 applicant a temporary permit as above provided. But one certifi-
17 cate or permit shall be used where a hotel and restaurant are com-
18 bined and conducted in the same building and under the same

19 management. Each certificate or permit shall expire on the thir-
20 tieth day of June next following its issuance and no hotel or
21 restaurant shall be maintained and conducted in this state after
22 July first, one thousand nine hundred and thirteen, without the
23 certificate of inspection thereof as herein prescribed, which certifi-
24 cate shall be posted in the main public room of such hotel or
25 restaurant, and shall show the date of such inspection and the nota-
26 tions relating thereto by the hotel inspector. No such certificate
27 shall be transferable. The fee for such inspection and certificate
28 or permit shall be for a hotel, two dollars, and twenty-five cents
29 additional for each bed room in excess of seven; and for a res-

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30 tau-rant, two dollars, and twenty-five cents additional for each
31 five chairs or stools, or spaces where persons are fed in excess of
32 the first ten, but no fee shall exceed ten dollars. All such fees
33 shall be paid before the inspection is made by the hotel inspector.
34 Such inspector shall, on the first of each month, pay into the
35 state treasury all fees collected for inspections during the preced-
36 ing month. Every certificate of inspection or permit shall be
37 made and issued in duplicate.

Sec. 5. Every such certificate shall show that the hotel or
2 restaurant is equipped and conducted according to law, and shall
3 be kept posted in some conspicuous place in such hotel or res-
4 taurant. Every such permit shall show, according to the fact,
5 why it is granted, and that the hotel or restaurant is according to
6 law permitted to be kept, and it shall be kept posted in like man-
7 ner.

Sec. 6. No license to keep a hotel, tavern, or restaurant,
2 and no certificate for such license shall hereinafter be issued unless
3 there is filed in the county court to which application therefor is
4 made, a temporary permit granted by the hotel inspector as pro-
5 vided in this act. Every license shall bear on its face the serial
6 number of such temporary permit.

Sec. 7. The applicant for inspection of a hotel or restau-
2 rant shall file with the hotel inspector a written application in
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3 form to be prescribed by the state board of health and which shall
4 be set forth the name and address of the owner of the building
5 or property to be occupied, and of the agent of any such owner; the
6 name and address of the lessee and manager, if any, of the hotel

7 or restaurant; the location of such hotel or restaurant and a full
8 description of the building or property to be occupied by it and
9 such other matters as may be required by the state board of
10 health. The fee for inspection shall be paid to the hotel inspector
11 when a regular inspection is made.

Sec. 8. The hotel inspector shall inspect, or cause to be in-
2 spected, at least once annually, every hotel and restaurant in the
3 state. For that purpose he, or any person designated by him,
4 shall have the right of entry and access at any reasonable time
5 to inspect kitchens where food is prepared, pantry and storage
6 rooms pertaining thereto, dining rooms, lunch counters, and every
7 place where articles pertaining to the serving of the public are
8 kept or prepared. The said inspector shall prohibit the use of
9 any articles not in keeping with cleanliness and good sanitary
10 conditions. He shall also have the right to enter any and all
11 parts of a hotel at all reasonable hours to make such inspection,
12 and every person in the management, or control thereof, shall af-
13 ford free access to every part of the hotel and render all assist-

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14 ance necessary to enable the inspector to make full, thorough and
15 complete examination thereof, but the privacy of any guest in
16 any room occupied by him, shall not be invaded without his con-
17 sent.

Sec. 9. Whenever, upon such inspection, it shall be found
2 that any such hotel or restaurant is not equipped, or being con-
3 ducted in the manner and under the conditions required by the
4 provisions of this act, the hotel inspector shall notify the owner,
5 manager or agent in charge of such hotel or restaurant of such
6 changes or alterations as in the judgment of the hotel inspector
7 may be necessary to effect a complete compliance with the pro-
8 visions of this act. Such owner, manager or agent, shall there-
9 upon make such alterations or changes as may be necessary to put
10 such buildings and premises in a condition, and conduct it in a
11 manner that will fully comply with the requirements of this act;
12 *provided, however,* that due time after receiving such notice shall
13 be allowed for conforming to the requirements thereof, which
14 time shall be specified in the notice. Should the changes or
15 alterations directed by such notice not be made in the time speci-
16 fied therein, the said inspector shall proceed against the person,
17 or persons in default in any court having jurisdiction to enforce

18 the provisions of this act against him or them. Every person,
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19 firm or corporation which shall fail or refuse to comply with the
20 provisions of this section, shall be guilty of a misdemeanor and on
21 conviction thereof, shall be subject to a fine of five dollars for each
22 and every day such failure or refusal may continue. If such
23 failure or refusal shall continue for thirty days after the notice
24 from the hotel inspector, the inspector may proceed in the circuit
25 court of the county wherein such hotel or restaurant is, for an
26 order closing it. After such order is issued, the building or
27 property shall not again be used for a hotel or restaurant until
28 a certificate or permit shall have been issued by the hotel in-
29 spector, and any disobedience of such order shall be punished as
30 other contempts of court. Reasonable notice shall be given of
31 the application for such order.

Sec. 10. Every hotel and restaurant in this state, shall be
2 properly lighted by day and by night, shall be properly plumbed,
3 and ventilated and shall be conducted in every department with
4 strict regard for the health, comfort and safety of guests. Such
5 proper plumbing and draining shall be done and maintained ac-
6 cording to approved sanitary principles. Such proper ventila-
7 tion shall be construed to require at least one door and one win-
8 dow in every sleeping room, which window shall permit easy ac-
9 cess to the outside of the building, light-well or court. No room

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10 shall be used for a sleeping room which does not open to the
11 outside of the building or light-wells, air shafts or courts, and
12 every sleeping room shall have at least one window.

Sec. 11. In every city, town or village where a system of
2 water works and sewerage is maintained for public use, every hotel
3 therein shall, within six months after the passage of this act, be
4 equipped with suitable water closets for the accommodation of
5 guests, which water closets shall be connected by proper plumbing
6 with such sewer system, and be provided with the means of flush-
7 ing such water closets with the water of such system in such man-
8 ner as to prevent sewer gas or effluvia arising therefrom. All
9 lavatories, bath tubs, sinks, drains, closets and urinals in such
10 hotels must be furnished and equipped in similar manner, both
11 as to methods and time.

Sec. 12. In all cities, towns or villages not having a system

2 of water works, every hotel shall have properly constructed privies
3 or vaults to receive the night soil, that shall be kept clean and
4 well screened at all times, and free from all filth of every kind.
5 The privies shall have separate compartments for each sex, each
6 compartment being properly designated.

Sec. 13. Whenever it shall be proposed to erect a building
2 three stories or more in height, intended for use as a hotel in this
3 state, it shall be the duty of the owner or proprietor of such
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4 hotel to construct the same so that one main hallway on each
5 floor above the ground floor shall run to an opening in the out-
6 side wall of the building. Every building used as a hotel after
7 the passage of this act must comply with the provisions of the
8 code of West Virginia pertaining to fire escapes. All fire es-
9 capes shall be indicated by a red light and a placard in each
10 hallway leading to such fire escapes.

Sec. 14. Every hotel shall be provided with one fire ex-
2 tinguisher of style and size approved by the national board of fire
3 underwriters, on each floor containing twenty-five hundred square
4 feet of floor area; and one additional fire extinguisher on each
5 floor for each additional twenty-five hundred square feet of floor
6 room, or fraction thereof. Every such extinguisher shall be
7 placed in a convenient location in the public hallway, outside of
8 sleeping rooms, at or near the head of stairs, and shall always be
9 in condition for use.

Sec. 15. All hotels in this state shall be provided with a pub-
2 lic wash room convenient and of easy access to guests, and in each
3 bed room and public wash room there shall be furnished for each
4 registered guest clean, individual towels, of cotton or linen, so
5 that no two or more registered guests will be required to use the
6 same towel unless it has been first washed. Such individual towel

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7 shall be not less than twelve inches wide and eighteen inches long
8 after being washed.

Sec. 16. In every hotel or restaurant a list of its charges for
2 rooms and meals shall be posted in a conspicuous place in its
3 office or main room. *Provided, however,* that the hotel operated
4 on the European, or a *la carte* plan, shall not be required to quote
5 their charges for meals so served.

Sec. 17. No person, firm or corporation engaged in conduct-

2 ing a hotel or restaurant, shall knowingly have in their employ
3 any person who has an infectious, contagious or communicable dis-
4 ease.

Sec. 18. Every person keeping or conducting a hotel shall
2 see that every room or bed which has been occupied by any person
3 known to have an infectious, contagious or communicable disease
4 at the time of such occupancy, is thoroughly disinfected by meth-
5 ods to be prescribed by the state board of health before said room
6 shall be occupied by any other person. Any person violating the
7 provisions of this section shall be subject to a fine not exceeding
8 three hundred dollars, and to confinement in jail not exceeding
9 six months, or both, at the direction of the court.

Sec. 19. Every hotel shall after July first, one thousand nine
2 hundred and fourteen, provide each bed, bunk, cot or other sleep-
3 ing place for the use of guests with pillow slips and under and
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4 top sheets, the under sheet to be of sufficient size to completely
5 cover the mattress and springs and the top sheet to be of like
6 width and at least ninety-nine inches long and not to be less than
7 ninety inches in length after having been laundried. Such sheets
8 and pillow slips shall be made of white cotton or linen, and all such
9 sheets and pillow slips after being used by one guest must be
10 washed and ironed before being used by another guest, a clean
11 set being furnished each succeeding guest. All bedding, in-
12 cluding mattresses, quilts, blankets, pillows, and all carpets and
13 floor covering used in any hotel in this state, must be thoroughly
14 aired, disinfected and kept clean.

Sec. 20. In every hotel, any room infected with vermin or
2 bed bugs shall be fumigated, disinfected and removed until said
3 vermin or bed bugs are extirpated.

Sec. 21. All notices to be given by the hotel inspector shall
2 be in writing and shall be delivered either in person or sent by
3 registered mail.

Sec. 22. Any person, firm or corporation who shall operate
2 a hotel or restaurant in this state or who shall let a building to
3 be used for such purposes, without first having complied with
4 the provisions of this act, shall be guilty of a misdemeanor and
5 shall be fined the sum of five dollars for each day such failure
6 to comply shall continue.

Sec. 23. The prosecuting attorney of each county in this state is hereby authorized and required, upon complaint on oath of the hotel inspector, or other person, or persons, to prosecute to termination before any court of competent jurisdiction, in the name of the state, a proper action or proceeding against any person, or persons, violating the provisions of this act.

Sec. 24. The provisions of this act shall not apply to any hotel or boarding house wherein there are fewer than five bed chambers for guests; nor to any rooming house where guests are not offered accommodations for a period of less than three days at any one time, nor to any farm house or private house which is not held out to the public as a hotel or boarding house.

Senate Bill No. 339

[BY MR. GOODYKOONTZ.]

Introduced February 16, 1915. Reference to a Committee dispensed with; rules suspended, taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to create a new Virginia Debt Commission, defining its powers and duties, and providing for its compensation and relieving the Virginia Debt Commission appointed pursuant to Joint Resolution of February twenty-first, one thousand nine hundred and thirteen, from further duty.

WHEREAS, By joint resolution of the Senate of West Virginia, the house of Delegates concurring therein, adopted February twenty-first, one thousand nine hundred and thirteen, a commission of eleven members known as the "Virginia Debt Commission," was created, with the powers and duties in said resolution set forth; and,

WHEREAS, Under and by virtue of the authority of said resolution, eleven representative citizens of the state of West Virginia were appointed by the governor as members of said commission, who have, with credit to themselves and the state of West Virginia, discharged their duties as members of such commission; but,

WHEREAS, The said commission heretofore created as aforesaid was not authorized to defend the suit of the Commonwealth of Virginia against the State of West Virginia, then and now pending in the

Supreme Court of the United States, but was only created with the
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power and authority to negotiate and make recommendations in relation to the controversy between the two states involved in said suit; and,

WHEREAS, The commission heretofore created has in an eminently satisfactory manner performed all the duties devolving upon it by the resolution of its creation, and made its final report to the Legislature, and said suit still pends and requires defense; and,

WHEREAS, It is deemed expedient to create a new commission of a less and more convenient membership, and with full power not only to do any and everything necessary to the defense of said suit, but with the like power to negotiate a settlement thereof, if the opportunity should present to do so with advantage and profit to the state of West Virginia and her citizens; now, therefore,

Be it enacted by the Legislature of West Virginia:

Sec. 1. That a commission of five members, known as the
2 new "Virginia Debt Commission," be, and the same is hereby creat-
3 ed, the members thereof to be selected as follows: that is to say,
4 the governor of the state of West Virginia shall be *ex officio* a
5 member and the chairman of said commission, and he shall ap-
6 point the remaining four commissioners, two of whom shall be
7 selected from the Republican party and two from the Demo-
8 cratic party.

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Sec. 2. Said commission is authorized and directed to
2 defend the case of the Commonwealth of Virginia against the
3 State of West Virginia, now pending in the Supreme Court of
4 the United States, as well as any other litigation that may spring
5 out of said controversy, and is now fully authorized and em-
6 powered to do anything and everything which in its judgment or
7 discretion may be deemed necessary or best to that end; and it
8 is likewise authorized, in the event a proper opportunity should
9 present itself, to negotiate a settlement of said controversy, sub-
10 ject, however, to the ratification of the legislature of the state of
11 West Virginia.

Sec. 3. Said commission is empowered to employ attor-
2 neys and counsellors at law to assist the attorney general of the
3 state in the conduct of said litigation, and to advise and assist
4 the commission; and the fees and expenses of such counsel shall
5 be paid by the state out of moneys appropriated for such purpose.

Sec. 4. A majority of the commission shall have authority to act, and is authorized to appoint a secretary from within or without its own membership.

5. The expenses properly incurred by the commission and its individual members, including compensation of said members at the rate of ten (\$10.00) Dollars per day for the time actually employed (excepting the governor, who shall only receive his expenses), shall be paid by the state out of moneys appropriated for that purpose; and,

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Sec. 6. The Virginia Debt Commission heretofore created by the joint resolution adopted February twenty-first, one thousand nine hundred and thirteen, is hereby abolished, and its members hereby relieved from further duty in that connection.

Sec. 7. The governor shall have power to fill any vacancies that may occur by reason of death, resignation or otherwise in the membership of such commission, from time to time, as occasion may require; but in filling such vacancies the governor shall do so from the political party from which the commissioner whose office becomes vacant, was appointed.

Sec. 8. The governor shall make the appointment of the commissioners as provided in section one hereof and report the same to the present session of the legislature for confirmation or rejection.

Section 9. All acts and parts of acts inconsistent herewith are hereby repealed.

Senate Bill No. 24

[BY MR. ROSENBLOOM—BY REQUEST.]

Introduced January 18, 1915. Referred to the committee on the Judiciary. February 10, reported back with the recommendation that it do pass; February 13, taken up in regular order for consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact section thirty-four of chapter one hundred and forty-five, of the code of West Virginia, in regard to making, delivering, etc., of checks, without funds to cover the same.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That section thirty-four of chapter one hundred and 2 forty-five of the code of West Virginia be amended and re-enacted 3 to read as follows:

Sec. 34. If any person for himself or for another or any of- 2 ficer of any corporation or any partner of any firm or co-partner- 3 ship or any agent of any person, firm or co-partnership or corpora- 3-a tion for any such person, firm, co-partnerships or corpora- 4 tion make and issue, utter or deliver to another for any considera- 5 tion, any check or draft on any bank and thereby obtain from such 6 other credit, money, goods or property of any description, credit 7 in full account, credit on account, extension of credit on any note, 8 debt, or other obligation, and have no funds, or insufficient funds on 9 deposit to his credit in such bank, with which such check or 9-a draft may be paid, he shall be guilty of misdemeanor; if the

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9-b amount of such check or draft be under twenty dollars; and 10 upon conviction thereof, be fined not less than twenty dollars nor 11 more than one hundred dollars, and be confined in the county jail 12 not less than seven nor more than thirty days for each offense. If 13 the amount of such check or draft be twenty dollars or more, he 14 shall be guilty of a felony, and upon conviction thereof shall be 15 confined in the penitentiary not less than one or more than two 16 years, for each offense, and the maker or drawer of such check or 17 draft shall be prosecuted in the county in which such check or draft 18 is issued, uttered or delivered. *Provided, however,* that if the per- 19 son who makes and issues, utters or delivers any such check or 20 draft shall within ten days from the time he received notice, verbal 21 or written, of the protest, or dishonor, or non-payment of such 22 check or draft, pay the same, he shall not be prosecuted under the 23 provisions of this section, and any prosecution that may have been 24 instituted or commenced before the ten days mentioned shall have 25 elapsed, if payments be made as aforesaid, shall be dismissed at 26 the cost of the defendant.

27 Justices of the Peace shall have jurisdiction to try misde- 28 meanors hereunder, without indictment, and shall in prosecutions 29 for felonies hereunder, if probable cause be shown, hold accused 30 under bond of not less than five hundred dollars for his appearance S. B. No. 24]

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31 before the grand jury. The following form of indictment shall be 32 deemed sufficient:

33 State of West Virginia,

34 County of, to-wit:

36 In the court of said county.

36 The grand jurors of the state of West Virginia, in and for the
 37 body of the county of, upon their oaths present
 38 that, within one year last past in the
 39 county aforesaid, did unlawfully and feloniously, (if for a felony,
 40 or did unlawfully if for a misdemeanor) issue, utter and deliver un-
 41 tofor consideration his certain check (or draft) of
 42 the words and figures following: (here copy) when he, the said
 43 had insufficient funds on deposit with the
 44 said bank with which to pay the same; against the peace and dig-
 45 nity of the state.

Sec. 2. All acts or parts of acts heretofore passed and en-
 2 acted, inconsistent or in conflict with this act, are hereby re-
 3 pealed.

Senate Bill No. 182

[BY MR. MCCRUM.]

Introduced January 23, 1915. Referred to the Committee on the
 Judiciary; January 28, reported back with the recommendation that
 it do pass; February 5, taken up in regular order, read a first time
 and ordered to a second reading.

A BILL to amend and re-enact section one of chapter one hundred
 and fifty-one of the Code of one thousand nine hundred and six.
Be it enacted by the Legislature of West Virginia:

Sec. 1. A person who shall keep or exhibit a gaming table,
 2 commonly called an A. B. C., or E. O. table, or faro bank, or
 3 keno table, or roulette table, or crap table or slot machine, or ta-
 4 ble or machine of like kind under any denomination, whether the
 5 game or table be played with cards, dice or otherwise, or shall be
 6 a partner, or concerned in interest, in the keeping or exhibiting
 7 such table, machine or bank, shall be confined in jail not less than
 8 two nor more than twelve months, and be fined not less than one
 9 hundred nor more than one thousand dollars. Any such table,
 10 machine or faro bank, and all money staked or exhibited to allure
 11 persons to bet at such table, may be seized by order of a court, or

12 under the warrant of a justice, and the money so seized, after de-
 13 ducting therefrom one-half for the person making the seizure,
 14 shall be forfeited, as is provided in the thirty-first section of chap-
 15 ter forty-six in respect to the forfeiture declared by that chapter,
 16 and the table, machine and faro bank burnt.

Senate Bill No. 329

[BY MR. KELM.]

Introduced February 11, 1915. Referred to the Committee on In-
 surance. February 12, reported back without recommendation.
 February 13, taken up in regular order for consideration, read a first
 time and ordered to a second reading.

A BILL to provide for the administration of a workman's compen-
 sation fund by the West Virginia compensation commissioner;
 creating the office of compensation commissioner, and defining
 the powers, duties and liabilities of said ocmmissioner, and to
 provide a method of compensation for employees that may be
 injured, or the dependents of those killed in the course of their
 employment, either from said fund or to be raised and paid into
 the hands of the state treasurer as herein set forth; or directly
 from the employers of such employees, as the case may be; and
 to define and fix the rights of employees and employers; and to
 define the defenses that may be made by employers in actions
 for damage arising from death and personal injuries; and to
 provide a method of raising said funds to meet the disburse-
 ments that may be ordered to be made under this act; and, also,
 to provide for the payment of salaries and expenses of said com-
 missioner and his employees; and for appeals from the rulings
 of said commissioner; and for defining the classes of employers
 and employees who may bring themselves under this act; and
 also defining those defenses that those employers not bringing

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themselves under this act may make in actions for damages
 arising from death of, or personal injury to, their employees;
 and to amend and re-enact sections, one, two, three, four, six,
 seven, eight, nine, eleven, twelve, thirteen, fourteen, fifteen, six-
 teen, seventeen, eighteen, nineteen, twenty, twenty-two, twenty-
 three, twnty-four, twenty-five, twenty-seven, twenty-nine, thir-

ty, thirty-one, thirty-three, thirty-four, thirty-five, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-three, forty-four, forty-five, forty-six, forty-eight, forty-nine, fifty-one, fifty-two, and fifty-four of chapter ten of the acts of one thousand nine hundred and thirteen; and to repeal sections five, thirty-two, forty-seven, fifty-five of chapter ten of the acts of one thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

That sections five, thirty-two, forty-seven, and fifty-five of chapter ten of the acts of one thousand nine hundred and thirteen, be hereby repealed; and that sections one, two, three, four, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-five, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-three, forty-five, forty-six, forty-eight, forty-nine, fifty-one, fifty-two, and fifty-S. B. No. 329]

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four of chapter ten of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Sec. 1. The office of the state compensation commissioner 2 is hereby created. The governor, with the consent of the senate, 3 shall, on or before the thirtieth day of April, one thousand nine 4 hundred and fifteen, appoint as state workmen's compensation 5 commissioner some citizen of this state entitled to vote, whose 6 term of office shall begin at the date of appointment, and shall 7 continue for eight years and until the successor of such commis- 8 sioner is appointed and qualified, unless he sooner be removed. An 9 appointment may be made to fill a vacancy or otherwise when the 10 senate is not in session, but shall be acted upon at the next ses- 11 sion thereof. The person so appointed shall take the oath or 12 affirmation prescribed by section five of article four of the consti- 13 tution; and such oath shall be certified by the person who ad- 14 ministers the same, and shall be filed in the office of the secre- 15 tary of state.

16 (a). The commissioner may be removed by the governor 17 for incompetency, neglect of duty, gross immorality or malfeas- 18 ance in office, after giving him notice, and a copy of the charges, 19 and the right to be heard in an investigation of the truth thereof. 20 A record of the proceedings, including the evidence, shall be kept.

21 (b). The attorney general shall perform all legal services

22 required by the commissioner under the provisions of this act.

23 (c). The commissioner shall hold no position of trust or
24 profit, or engage in any occupation or business, interfering or in-
25 consistent with his duties as such commissioner.

26 (d). Said commissioner shall receive an annual salary of
27 six thousand dollars, payable in the same manner as the salaries
28 of other state officers are paid, and charged to the appropriations
29 which shall be made from time to time hereafter by the state for
30 the administration of this act.

31 (e). The commissioner shall have an official seal for the
32 authentication of his orders and proceedings, upon which seal
33 shall be engraved the words "West Virginia Compensation Com-
34 missioner", and such other design as the commissioner may pre-
35 scribe; and the courts of this state shall take judicial notice of
36 the seal of the commissioner; and in all cases copies of orders,
37 proceedings of record in the office of the West Virginia compen-
38 sation commissioner certified by the secretary of said commis-
39 sioner under his seal, shall be equal to the original in evidence.
40 Until the appointment and qualification of said compensation
41 commissioner, the duties of the said compensation commissioner
42 shall be performed by the public service commission, as is now
43 prescribed by law.

Sec. 2. It is the intent of this act that the expense of the
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2 administration of said fund shall be paid by the state, so that the
3 fund hereinafter created shall be applied solely to the payment
4 of the benefits provided for in this act; and all expenses peculiar
5 to the administration of this act, including the premium to be
6 paid for the bond of the state treasurer required under this act,
7 the salary, and, when on official business, the traveling and inci-
8 dental expenses of the commissioner, and salaries and other
9 compensation, traveling and other expenses of all officers or em-
10 ployees of the commissioner; and all expenses for furniture,
11 books, maps, stationery, appliances and property of all kinds be
12 paid by the state appropriations made from time to time for this
13 purpose.

Sec. 3. All payments of salaries and expenses in the admin-
2 istration of this act shall be made by the state treasurer upon
3 the order or voucher approved and signed by the commissioner,
4 directed to the auditor of the state, who shall draw his warrant

5 therefor and any such payment shall be charged to the appro-
6 priation which shall be made from time to time hereafter by the
7 state for the administration of this act.

Sec. 4. The offices of the commissioner shall be open for the
2 transaction of the business between the hours of nine o'clock A.
3 M., and five o'clock, P. M., of each and every day, excepting
4 Sundays and legal holidays, and be in charge of his secretary

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5 or some other competent person. All proceedings of the com-
6 mission shall be shown on his record of proceedings, which shall
7 be a public record, and shall contain a record of each case con-
8 sidered and the award with respect thereto and of all salaries al-
9 lowed to any employee of the commissioner or to any other per-
10 son for services.

Sec. 6. The commissioner shall keep and maintain his of-
2 fice at the seat of government, and shall provide a suitable room
3 or rooms, necessary office furniture, supplies, books, periodicals,
4 maps, and other equipment. After due notice showing the time
5 and place, the commissioner may hold hearings anywhere within
6 the state.

7 As soon as said commissioner shall have been appointed and
8 qualified as such, all records, books, papers, documents, office
9 supplies and furniture and other effects, appertaining to the ad-
10 ministration of the workmen's compensation fund shall be turned
11 over to said commissioner, and placed in his custody and control,
12 and the workmen's compensation fund heretofore created shall
13 thereupon become subject to orders or vouchers approved by him
14 as hereinafter provided, and from such time he shall have juris-
15 diction, rights, powers, and duties, in respect to the payment of
16 compensation out of the workmen's compensation fund upon
17 awards theretofore made by the public service commission under
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18 said chapter ten of the acts of one thousand nine hundred and
19 thirteen, and the same continuing jurisdiction in respect to awards
20 theretofore made by said public service commission as vested by
21 said chapter ten in the public service commission, and is vested
22 by this act in the said commissioner; and said commissioner shall
23 also have jurisdiction of all applications for compensation from
24 said fund pending before said public service commission, when
25 said commissioner shall have been appointed and have qualified,
26 and of all applications for compensation based upon accidents
27 theretofore occurring as if they had occurred thereafter.

Sec. 7. The commissioner may employ a secretary, actuary, 2 accountants, inspectors, examiners, experts, clerks, stenograph- 3 ers and other assistants, and fix their compensation, which shall 4 be paid out of the state treasury. The commissioner, actuaries, 5 accountants, inspectors, examiners, experts, clerks, stenograph- 6 ers and other assistants that may be employed shall be entitled 7 to receive from the state treasury their actual and necessary ex- 8 penses while traveling on business of the commissioner. Such 9 shall be itemized and sworn to by the person who incurred the 10 expenses, and allowed by the commissioner.

Sec. 8. The commissioner shall adopt reasonable and proper 2 rules of procedure, regulate and provide for the kind and char- 3 acter of notices, and the service thereof, in case of accident and 10 [S. B. No. 329] 4 injury to employees, the nature and extent of the proofs and evi- 5 dence, and the method of taking and furnishing the same; to es- 6 tablish the rights to benefits or compensation from the fund here- 7 inafter provided for, or directly from employers as hereinafter 8 provided as the case may require, the forms of application of 9 those claiming to be entitled to benefits of compensation there- 10 from, the method of making investigations, physical examina- 11 tions and inspections, and prescribe the time within which ad- 12 judications and awards shall be made.

Sec. 9. All persons, firms, associations and corporations 2 regularly employing other persons for profit, or for the purpose 3 of carrying on any form of industry in this state, (casual employ- 4 ment excepted), are employers within the meaning of this act, and 5 subject to its provisions. All persons in the service of employers 6 as herein defined, and employed by them for the purpose of carry- 7 ing on the industry in which they are engaged, (casual employ- 8 ment excepted), are employees within the meaning of this act, 9 and subject to the provisions hereof; *provided*, that this act shall 10 not apply to employers or employees in domestic or agricultural 11 service, persons prohibited by law from being employed, traveling 12 salesmen, to employees of any employer who are employed wholly 13 within this state; nor shall a member of a firm of employers, or 14 any officer of an association, or of a corporation employer, includ- S. B. No. 329] 11

15 ing managers, superintendents, assistant managers, or assistant 16 superintendents, be deemed an employee within the meaning of 17 this act.

18 Any employer whose employment in this state is to be for a

19 definite or limited period, which could not be considered "regu-
20 larly employing" within the meaning of this act, may elect to pay
21 into the workmen's compensation fund the premium herein pro-
22 vided for, and at the same time of making application to the com-
23 missioner, such employer shall furnish a statement, under oath,
24 showing the probable length of time and employment will con-
25 tinue in this state, the character of the work, an estimate of the
26 monthly pay roll, and other information which may be required
27 by the commissioner. At the time of making application such
28 employer shall deposit with the state treasurer to the credit of
29 the workmen's compensation fund the amount required by section
30 twenty-four of this act, which amount shall be returned to such
31 employer if his application be rejected by the commissioner. Upon
32 notice to such employer of the acceptance of his application by
33 the commissioner, he shall be an employer within the meaning
34 of this act, and subject to all its provisions. Any foreign corpo-
35 ration employer electing to comply with the provisions of this act,
36 and to receive the benefits hereunder shall at the time of making
37 application to the commissioner, in addition to the other require-

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38 ments of this act, furnish such commissioner with a certificate
39 from the secretary of the state, showing that it has complied with
40 all the requirements necessary to enable it to legally do business
41 in the state, and no application of such foreign corporation em-
42 ployer shall be accepted by the commissioner until such certificate
43 is filed.

Sec. 10. Every employer shall furnish the commissioner, upon
2 request, all information required by him for the purpose of carry-
3 ing out the provisions of this act. The commissioner or other
4 person employed by the commissioner for that purpose, shall have
5 the right to examine under oath any employer, or officer, agent
6 or employee of any employer.

Sec. 11. The commissioner shall prepare report blanks for
2 the use of, and furnish the same to employers, subject to this act;
3 and every employer receiving from the commissioner any blanks
4 with directions for filling out and returning the same, shall re-
5 turn the same filled out, so as to answer fully and correctly all
6 pertinent questions therein contained, and if unable to do so,
7 shall give good and sufficient reasons for such failure. Answers
8 to such questions shall be verified under oath, and returned to
9 the commissioner within the period fixed by the commissioner
10 for such return. Every employer subject to the provisions of

11 this act, who may hereafter elect to pay the premiums as pro-
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12 vided herein, and to receive the benefits hereunder, shall make
13 application on the forms prescribed by the commissioner for such
14 purpose; and all employers who shall desire to discontinue the
15 payment of premiums required under this act, shall so notify the
16 commissioner on forms to be furnished by the commissioner for
17 the purpose.

Sec. 12. The commissioner, secretary and every inspector
2 or examiner appointed by the commissioner shall, for the purposes
3 contemplated by this act, have power to administer oaths, cetrify
4 official acts, take depositions, issue subpoenas and compel the at-
5 tendance of witnesses, and the production of pertinent books, ac-
6 counts, papers, records, documents and testimony.

Sec. 13. In case of failure, or refusal of any person, to com-
2 ply with the order of the commissioner, or subpoena issued by
3 him, or the secretary, or one of his inspectors or examiners, or on
4 the refusal of a witness to testify to any matter regarding which
5 he may be lawfully interrogated, or refuse to permit an inspec-
7 tion as aforesaid, the circuit judge in the county in which the
8 person resides, on application of the commissioner, or any inspec-
9 tor or examiner appointed by him, shall compel obedience by at-
10 tachment proceedings as for contempt, as in the case of disobe-
11 dience of the requirements of the subpoena issued from said court
12 or a refusal to testify therein.

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Sec. 14. Each officer who serves such subpoena shall re-
2 ceive the same fee as a sheriff, and each witness who appears, in
3 obedience to a subpoena, before the commissioner, or an inspec-
4 tor or an examiner, shall receive for his attendance the fees and
5 mileage provided for witnesses in civil cases in the circuit court,
6 which shall be audited and paid from the state treasury in the
7 same manner as other expenses are audited and paid, upon pre-
8 sentation of proper vouchers approved by the commissioner.

9 No witness subpoenaed at the instance of a party other than
10 the commissioner, or the inspector or examiner, shall be entitled
11 to compensation from the state treasury unless the commissioner
12 shall certify that his testimony was material to the matter inves-
13 tigated.

Sec. 15. In an investigation, the commissioner may cause
2 depositions of witnesses residing within or without the state to

3 be taken in the manner prescribed by law for like depositions as
4 provided for transcripts in the circuit court.

Sec. 16. A transcribed copy of the evidence and proceed-
2 ings or any specific part thereof, on any investigation, taken by
3 a stenographer appointed by the commissioner, being certified
4 and sworn to by such stenographer to be a true and correct tran-
5 script of the testimony in the investigation, or a particular wit-
6 ness, or of a specific part thereof, or to be a correct transcript of
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7 the proceedings had on such investigation so purporting to be
8 taken and subscribed, may be received in evidence by the com-
9 missioner with the same effect as if the stenographer were present
10 and testified to the facts certified. A copy of such transcript
11 shall be furnished on demand to any party upon payment of the
12 fee therefor, as provided for transcripts in the circuit court.

Sec. 17. The commissioner shall prepare and furnish free
2 of cost blank forms, (provided in his rules for distribution so that
3 they may be readily available), of application for benefits for
4 compensation from the workmen's compensation fund, or directly
5 from employers, as the case may be, notices to employers, proofs
6 of injury or death, of medical attendance, or employment and
7 wage earnings, and such other blanks as may be deemed proper
8 and advisable, and it shall be the duty of employers to constantly
9 keep on hand a sufficient supply of such blanks.

Sec. 18. For the purpose of this act the following classifi-
2 cation of the industries subject thereto is adopted:

3 (a) Coal mine, including their tipples, power, light, heat-
4 ing and ventilating plants, tramways, private tracks and sidings
5 and accessory and auxiliary plants working in or with by-prod-
6 ucts.

7 (b). Paint manufactories, oil refineries, oil and gas wells,
8 including their pipe lines, storage, power or light plants, tram-
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9 ways, private tracks and sidings, and accessory and auxiliary
10 plants working in or with by-products.

11 (c). Iron and steel mills, including blast furnaces, smelt-
12 ers, tube works, rolling mills and their accessory and auxiliary
13 plants working in or with by-products, generating power, light
14 or heat or operating tramways, private tracks and sidings.

15 (d). Sheet and tin plate mills, including their accessory
16 and auxiliary plants working in or with by-products, generating

17 power, light or heat or operating tramways, private tracks and
18 sidings.

19 (e). Foundaries, machine shops, fire-arm factories, tool
20 factories, car building and repairing, structural iron works, and
21 working in or with iron or steel, not otherwise specified, where
22 power driven machinery is used, together with their accessory and
23 auxiliary plants working in or with by-products, or generating
24 power, light or heat, or operating tramways, private tracks and
25 sidings.

26 (f). Stamped metal works, can factories, enamel iron works
27 and working in or with sheet iron or tin plate, not otherwise speci-
28 fied, where power driven machinery is used, together with their
29 accessory and auxiliary plants working in or with by-products,
30 or generating power, light or heat, or operating tramways, pri-
31 vate tracks or sidings.

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32 (g). Loggings, logging railroads and tramways, saw mills,
33 including their accessory and auxiliary plants working in or with
34 by-products, or generating power, light or heat, or operating
35 tramways, private tracks or sidings.

36 (h). Planing mills, wood pulp, cordage and paper mills,
37 box factories, cooperage plants, furniture factories, woodware or
38 wood fiber ware manufactories, vehicle works of every kind, in-
39 cluding their accessory or auxiliary plants working in or with by-
40 products, or generating power, light, or heat, or operating tram-
41 ways, private tracks or sidings.

42 (i). Glass houses of all kinds, including manufactories of
43 table ware, bar goods, bottles, tumblers, lamps, glass light fix-
44 tures, window and plate glass, potteries of all kinds, including
45 tile, brick, terra cotta, fire clay, earthenware, porcelain, china and
46 crockeryware using automatic machinery, together with their ac-
47 cessory and auxiliary plants working in or with by-products, or
48 generating power, light, heat or operating tramways, private
49 tracks or sidings.

50 (j). Glass houses of all kinds, including manufactories of
51 table ware, bar goods, bottles, tumblers, lamps, glass light fix-
52 tures, window and plate glass, potteries of all kinds, including
53 tile, brick, terra cotta, fire clay, earthenware, porcelain, china
54 and crockery ware not using automatic machinery together with

54 accessory and auxiliary plants, working in or with by-products,

55 or generating power, light or heat, or operating tramways, pri-
56 vate tracks and sidings.

57 (k). Printing plants of all kinds, electrotyping, photo-en-
58 graving, engraving lithographer, embossing, bookbinding, and ac-
59 cessory and auxiliary lines of work and manufacture.

60 (l). Woolen mills, knitting mills, cotton mills carpet and
61 rug mills, clothing manufactories of every kind, and working in
62 or with textile, not otherwise specified.

63 (m). Breweries, bottling works, canneries, of fruits, vege-
64 tables, oil, fish milk, or meat, manufactories, or preservers, jellies,
65 ketchup, sauces, relishes, pickles, flour and feed mills, bakeries,
66 confectionaries, drugs and extract manufactories, tobacco, cigar
67 and stogie and cigarette manufactories, in which power driven
68 machinery is used.

69 (n). Slaughter and packing houses, stock yards, soap, tal-
70 low, lard and grease manufactories, tanneries, artificial ice, and
71 refrigerating and cold storage plants, creameries, and carbon
72 black factories, in which power driven machinery is used.

73 (o). Steam laundries, dyeing and cleaning plants, stamp-
74 ing, embossing and working with leather, shoe and harness man-
75 ufactories, mattress and bedding factories, upholstering factor-
76 ies, manufacturers of rubber goods, and auxiliary and accessory
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77 lines of work and manufactuories not otherwise specified.

78 (p). Steam and other railroads and transportation sys-
79 tems not otherwise specified.

80 (q). Street and interurban railways, whether propelled by
81 electricity or other power.

82 (r). Telegraph and telephone plants and systems, electric
83 light and power plants and systems, steam heat and power plants
84 and systems, water works system, gas works and systems, grain
84-a elevators, and all lighting, heating, or power systems not other-
85 wise specified.

86 (s). Quarries, stone crushers, gravel pits, mines, other than
87 coal mines, and working with asphalt, cement, stone or other
88 building material, not otherwise specified, power propelled fer-
89 ries and diggers and other water craft.

90 (t). Such works, occupations and manufactories specified
91 in the foregoing eighteen classifications as are operated without
92 power driven machinery.

93 (v). Construction of tunnels, shafts, bridges, trestles,
94 steeples, towers, grain elevators, tanks, water towers, wind mills,

95 subaqueous works, iron or steel frame structures, or parts of
96 structures, blast furnaces smoke stacks, cupolas or chimneys more
97 than fifty feet high, water works and systems, electric lights and
98 power plants and systems, gas works and systems, installation of

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99 steam boilers, engines and dynamos, steam railroads, logging
100 railroads, street railways and systems, boat building with scaf-
101 folds, floating docks, engineering works, structural work on
102 buildings over three stories in height, not otherwise specified,
103 and drilling of wells.

104 (w). Construction and installation of sewers, fire escapes,
105 freight or passenger elevator, advertising signs, ornamental
106 metal works on or in buildings, metal ceilings, plate or window
107 glass, electrical wiring, stairways, buildings which require gal-
108 vanized iron or tin work, marble, stone or brick work, roof work,
109 plate work, plumbing work, carpenter work, electric work, in-
110 stalling automatic sprinklers, electric or fire alarm systems,
111 heating or ventilating systems, or machinery not otherwise spe-
112 cified, covering steam pipes and boilers, road and street making,
113 street or other grading, and structural work not otherwise spe-
114 cified.

115 (x). Such works or occupations not specified in the forego-
116 ing classifications in connection with which the employer shall
117 voluntarily apply to the commissioner for the benefit and pro-
118 tection of this act.

119 And it shall be the duty of the commissioner to classify
120 and place in one of the classes aforesaid any industries subject
121 to this act not hereinbefore specifically mentioned. And the
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122 commissioner shall have the power to reclassify, at any time,
123 the industries subject to this act, or to create additional classi-
124 fications with respect to their respective degrees of hazard, and
125 determine the risk of the different classes, and fix the rates of
126 premium for each class, according to the risks of the same,
127 sufficiently large to provide an adequate fund for the compensa-
128 tion provided for in this act, and to create a surplus sufficiently
129 large to guarantee a workmen's compensation fund from year
130 to year.

131 It shall be the duty of the commissioner in the exercise of
132 the powers and discretion conferred upon him in the preceding
133 section, ultimately to fix and maintain, for each class of occu-
134 pation, the lowest possible rates of premium consistent with the

135 maintenance of a solvent workmen's compensation fund and the
136 creation and maintenance of a reasonable surplus after profiting
137 for the payment of all liability incurred by reason of injury or
138 death to employees entitled to benefits under the provisions of
139 this act; and, in order that said object may be accomplished,
140 the commissioner shall observe the following requirements in
141 classifying occupations and fixing the rates of premium for the
142 risks of the same.

143 (1). He shall keep an accurate account of the money paid
144 in premiums by each of the several classes of occupations or in-

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145 dustries, and the disbursements on account of injuries and death
146 of employees thereof, and he shall keep an account of the money
147 received from each individual employer, and the amount dis-
148 bursed from the workmen's compensation fund on account of in-
149 juries and death of the employees of such employer.

150 (2). Ten per centum of all that may hereafter be paid into
151 the workmen's compensation fund shall be set aside for the cre-
152 ation of a surplus fund until such surplus shall amount to the
153 sum of one hundred thousand dollars, after which time the sum
154 of five per centum of all the money paid into the said fund
155 shall be credited to such surplus fund, until such time, in the
156 judgment of the commisioner, such surplus shall be sufficiently
157 large to guarantee a workmen's compensation fund from year
158 to year.

159 (3). On the first day of July, one thousand nine hundred
160 and sixteen, and semi-annually, thereafter, a readjustment of
161 the rates shall be made for each of the several classes of oc-
162 cupation or industry which, in the judgment of the commis-
163 sioner, have developed an average loss ratio in accordance with
164 the experience of the commissioner in the administration of the
165 law, as shown by the accounts kept as provided herein.

166 (4). Should any such accounting show a balance remaining
167 to the credit of any class of occupation or industry, after the
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168 above mentioned amounts have been credited to the surplus
169 fund, and after the payment of all awards for injury, and set-
170 ting aside a reserve sufficient to pay all liability incurred on ac-
171 count of deaths lawfully chargeable against the same, the prem-
172 ium rate for such class shall be reduced; and each individual
173 member of such class, who has been a subscriber to the work-
174 men's compensation fund for a period of six months or longer,

175 prior to the time of such readjustment, and whose premium or
176 premiums so paid to the fund exceeds the amount of the dis-
177 bursements from the fund on account of injuries or death to his
178 employees during such period, shall be entitled to a credit on
179 the installment or installments of premium next due from him,
180 the amount of which credit shall be such proportion of said
181 balance as the amount of his prior paid premiums sustains to
182 the whole amount of said premiums paid by the class to which
183 he belongs since the last readjustment of rates.

184 *Provided*, that nothing in this section contained shall pre-
185 vent the commissioner from adjusting at any time the premium
186 rate or rates for any class or schedule.

Sec. 19. The commissioner shall establish a workmen's
2 compensation fund from premiums paid thereto by employers
3 and employees, as herein provided, for the benefit of employees
4 of employers that have paid the premium applicable to the classes

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5 to which they belong, and for the benefit of the dependents of such
6 employees; and shall adopt rules and regulations with respect to
7 the collection, maintenance and disbursement of said fund, not
8 in conflict with the provisions of this act.

9 Employers electing, as herein provided, to individually and
10 directly compensate their injured employees and their fatally in-
11 jured employees dependents, shall do so in the manner prescribed
12 by the compensation commissioner, and shall make all reports,
13 execute all blanks, forms and papers as directed by said commis-
14 sioner, and as herein provided in this act.

Sec. 20. The treasurer of the state shall be the custodian
2 of the workmen's compensation fund, and all disbursements
3 therefrom shall be paid by him upon order or voucher, signed
4 by the secretary and approved by the commissioner, and direct
5 ed to the auditor of the state, who shall draw his warrant there-
6 for.

7 The treasurer of the state is hereby authorized to deposit
8 any portion of the workmen's compensation fund not needed
9 for immediate use in the same manner and respect to all the
10 provisions of the law with respect to the deposit of state funds
11 by such treasurer; and all interest earned by such portion of the
12 workmen's compensation fund as may be deposited by the state

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13 treasurer, in pursuance of authority herein given, shall be col-
14 lected by him and placed to the credit of such fund.

15 The board of public works shall have the power to invest
16 any of the surplus or reserve belonging to the workmen's com-
17 sation fund in bonds of the United States, the state of West
18 Virginia, or of any county, city, town, village or school district
19 of the state of West Virginia, at current market prices for such
20 bonds; and it shall be the duty of the officers of the several school
21 districts, counties and municipalities of the state in the issuance
22 and sale of bonds for their respective school districts, counties
23 and municipalities, to offer in writing to the board of public
24 works, prior to advertising the same for sale, all such issues as
25 may not have been taken by the trustees of the sinking fund of
26 the school districts, counties or municipalities so issuing such
27 bonds; and said board of public works shall, within ten days
28 after the receipt of such written offer, either accept the same
29 and purchase such bonds or any portion thereof, at par and ac-
30 crued interest or reject such offer in writing. All such bonds so
31 purchased forthwith shall be placed in the hands of the treas-
32 urer of the state, who is hereby designated as custodian there-
33 of, and it shall be his duty to collect the interest thereon as the
34 same becomes due and payable, and also the principal thereof,
35 and to pay the same, when so collected, into the workmen's

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36 compensation fund. The treasurer of the state shall honor and
37 pay all vouchers, drawn on the workmen's compensation fund
38 for the purchase of such bonds by the board of public works,
39 upon delivery of said bonds to him when there is attached to
40 such voucher a certified copy of such resolution of the board au-
41 thorizing the purchase of such bonds; and the board may sell
42 any of said bonds, upon like resolution, and the proceeds thereof
43 shall be paid by the purchaser to the treasurer of the state upon
44 delivery to him of said bonds by the treasurer.

Sec. 22. Any employer subject to this act who shall elect
2 to pay into the workmen's compensation fund the premiums
3 provided by this act, shall not be liable to respond in damages
4 at common law or by statute for the injury or death of any em-
5 ployee, however occurring, after such election and during any
6 period in which such employer shall not be in default in the
7 payment of such premiums; *provided*, the injured employee has
8 remained in his service with notice that his employer has elected
9 to pay into the workmen's compensation fund the premiums
10 provided by this act. The continuation in the service of such
11 employer with such notice shall be deemed a waiver by the em-

12 ployee and by the parents of any minor employee of (his) the
13 right of action as aforesaid, which the employee or his or her
14 parent would otherwise have.

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Sec. 23. Each employer electing to pay the premiums pro-
2 vided by this act into the workmen's compensation fund, or
3 electing to make direct payments of compensation as hereinafter
4 provided, shall post and keep posted in conspicuous places about
5 his place or places of business typewritten or printed notices, stat-
6 ing the fact that he has made such election, and the same when
7 so posted shall constitute sufficient notice to all his employees,
8 and to the parents of any minor employees, of the fact that he
9 has made such election.

10 No employer or employee shall exempt himself from the
11 burden or waive the benefits of this act by any contract, agree-
12 ment, rule, or regulation, and any such contract, agreement, rule
13 or regulation shall be *pro tanto* void.

Sec. 24. For the purpose of creating such workmen's
2 compensation fund, each employer subject to this act shall pay
3 into the state treasury the premiums of liability based upon
4 and being such a percentage of the pay-roll of such employer
5 as may have been determined and published by the commis-
6 sioner, and be then in effect. The premiums provided for in this
7 act shall be paid by the employers to the treasurer of the state,
8 and be contributed in the proportion of ninety per centum by
9 the employers, and ten per centum by the employees. The pre-
10 mium shall be paid monthly on or before the twenty-fifth of each

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11 month, for the preeeding month, and shall be the prescribed
12 percentage of the total earnings of all employees subget to this
13 act for such preeeding month. The minimum premium to be
14 paid by any employer for any month shall be one dollar.

15 Each employer is authorized to deduct from the pay of his
16 employees (excepting persons casually employed) for each
17 month, ten per centum of the premium paid, or to be paid, for
18 such month, in proportion to the pay received by them respect-
19 ively, for such month, the proper percentage to be deducted
20 from each installment of pay, whether paid monthly or more
21 frequently. The minimum deduction from the earnings of each
22 employee in any one month for which settlement is made to be
23 five cents.

24 Each employer shall give a receipt or statement to each

25 employee of the amount which has been deducted for the work-
26 men's compensation fund, and shall file with the commissioner
27 on making his next payment to the fund a sworn statement
28 showing what per centum of said payment herein provided to
29 be paid by the employees, (disregarding fractions of a cent),
30 has been deducted, and that no more than ten per centum (sub-
31 ject to the minimum requirement aforesaid), has been so de-
32 ducted. The state treasurer shall issue his receipt for any sums
33 paid him hereunder, in duplicate, the original to be delivered
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34 to the person, firm or corporation paying the same, and the du-
35 plicate to be filed with the commissioner. If such premiums be
36 not paid as herein provided, a penalty of ten per centum of the
37 amount of such premium shall be collected and paid into the
38 workmen's compensation fund, as aforesaid; and the failure to
39 pay all premiums and penalties as herein provided for two suc-
40 ceeding months shall deprive the employer so delinquent of the
41 benefits and protection afforded by this act, and shall terminate
42 the election of such delinquent employer to pay into the work-
43 men's compensation fund as herein provided, and such employer
44 shall be liable to employees as provided in section twenty-six of
45 this act; and the commissioner shall not be required to notify
46 the delinquent employer of such termination of suspension.

47 The employer so delinquent may be reinstated upon appli-
48 cation under such terms as are prescribed by this act, and by the
49 commissioner hereunder, after the payment into the workmen's
50 compensation fund of all unpaid premiums, penalties, interest
51 and charges. Such reinstatement shall be in force from and af-
52 ter the date that the new application is accepted by the commis-
53 sioner, and said delinquent employer shall not receive any bene-
54 fits hereunder during such suspension, nor shall his employees-
55 receive compensation for injuries received during the period of
56 such suspension.

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57 To insure the payment of the monthly premiums herein
58 provided, all employers who have heretofore elected to accept
59 the provisions of the workmen's compensation act, shall pay into
60 the workmen's compensation fund, in addition to the premiums
61 provided for, an amount at least equal to the amount of pre-
62 miums paid for the last two preceding months, and said em-
63 ployer shall be required to keep on deposit at all times, in the
64 said workmen's compensation fund an amount at least equal to

65 the premiums for the last preceding months. Such employer
66 upon the receipt of notice from the commissioner that the
67 amount which he is required to keep deposited in said fund is
68 not equal to the premiums paid for the last preceding two months,
69 shall immediately deposit as herein provided a sum sufficient
70 and necessary to comply with the requirements of this act.

71 Any employer hereafter electing to avail himself of the ben-
72 efits of this act shall at the time of making application to the
73 commissioner deposit in the workmen's compensation fund an
74 amount estimated to be equal to the amount of the premiums
75 which will be paid by him hereunder for the next succeeding
76 two months.

77 The deposit herein provided shall be considered as payment
78 of premiums each month until proper remittance is made for
79 the premium due on or before the twenty-fifth of each month as
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80 herein provided. *Provided*, said employer be not in default of
81 any premium previously due. Said deposit may be applied as
82 payment of premium for the month preceding or the month
83 following the employers election to discontinue the payments
84 into the fund provided by this act, and if said deposit be not
85 sufficient to cover said premium, the employer shall pay the de-
86 ficit, and if more than sufficient, the surplus shall be refunded
87 to the employer.

Sec. 25. The commissioner shall disburse the workmen's
2 compensation fund to such employees (within the meaning of
3 this act) of employers as have paid into said fund the premiums
4 for the month in which they belong, as shall have received in-
5 juries in this state in the course of and resulting from their em-
6 ployment, or to the dependents, if any, of such employees in
7 case death has ensued according to the provisions hereinafter
8 made.

9 In all claims for compensation for hernia resulting from in-
10 jury received in the course of and resulting from the employee's
11 employment, it must be definitely proven to the satisfaction of
12 the commissioner:

13 *First*, That there was an injury resulting from hernia;

14 *Second*, That the hernia appeared suddenly;

15 *Third*, That it was accompanied by pain;

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16 *Fourth*, That the hernia immediately followed an in-
17 jury;

18 *Fifth*, That the hernia did not exist prior to the in-
19 jury for which compensation is claimed.

20 All hernia, inguinal, femoral or otherwise, so proven to be
21 the result of an injury received in the course of, and resulting
22 from the employment, shall be treated in a surgical manner by
23 radical operation. If death results from such operation, the
24 death shall be considered as a result of the injury, and compen-
25 sation paid in accordance with the provisions of section thirty-
26 three. In non-fatal cases, time loss only shall be paid, unless it
27 is shown by a special examination that the injured employee has
28 a permanent partial disability resulting after the operation. If
29 so, compensation shall be paid in accordance with the provis-
30 ions in section thirty-one with reference to permanent partial
31 disability.

32 In case the injured employee refuses to undergo the radical
33 operation for the cure of said hernia, no compensation will be
34 allowed during the time such refusal continues. If, however,
35 it is shown that the employee has some chronic disease, or is oth-
36 erwise in such physical condition that it is considered unsafe
37 for him to undergo said operation, he shall be paid as provided
38 in section thirty-one.

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Sec. 27. The commissioner shall disburse and pay from the
2 fund for such injury to such employees as may be entitled there-
3 to hereunder:

4 (a). Such sums for medical, surgical and hospital treat-
5 ment as in the opinion of the commissioner may reasonably be
6 required; not, however, in any case to exceed the sum of one
7 hundred and fifty dollars; *provided*, that in case an injured em-
8 ployee has sustained a permanent disability, and it is the opin-
9 ion of the commissioner that the per centum of said disability
10 can be reduced or made negligible by surgical or medical treat-
11 ment, the amount expended for medical, surgical and hospital
12 treatment may be, but shall not exceed, three hundred dollars in
13 any case.

14 (b). Payment for such medical, surgical and hospital
15 treatment may be made to the injured employee, or to the per-
16 sons who have furnished the service, or to the persons who
17 have advanced payment for same, as the commissioner may deem
18 proper.

19 (c). Notwithstanding anything hereinbefore contained, no
20 payment shall be made out of the workmen's compensation fund

21 for medical, surgical or hospital treatment for an injured em-
22 ployee if said employee be entitled under contract connected with

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23 his employment or otherwise, to medical, surgical, or hospita-
24 treatment without further charge to him.

Sec. 28. Notwithstanding anything hereinbefore or here-
2 inafter contained, no employee or dependent of any employee
3 shall be entitled to receive any sum from the workmen's compen-
4 sation fund, or to direct compensation from any employer mak-
5 ing the election and receiving the permission mentioned in sec-
6 tion fifty-four hereof, or otherwise, under the provisions of this
7 act, on account of any injury to or death of an employee caused
8 by a self-inflicted injury, the wilful misconduct, or disobedience
9 to such rules and regulations as may be adopted by the employer
10 and approved by the commissioner, or the intoxication of such
11 employee.

12 For the purpose of this act, and to prevent accidents to em-
13 ployees, the commissioner may require all employers to adopt
14 rules for the protection and safety of their employees and keep
15 posted in conspicuous places in and about the work; which rules
16 shall be submitted to the commissioner for his approval.

17 If injury or death result to an employee from the deliberate
18 intention of his employer to produce such injury or death, the
19 employee, the widow, widower, child or dependent of the em-
20 ployee shall have the privilege to take under this act, and also
21 have cause of action against the employer, as if this act had not
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22 been enacted, for any excess of damage over the amount received
23 or receivable under this act.

Sec. 29. In case death ensues from the injury within the
2 period of twenty-six weeks, reasonable funeral expense, not to ex-
3 ceed seventy-five dollars, may be paid from the fund, payment
4 to be made to the persons who have furnished the service and
5 supplies, or to the persons who have advanced payment for same,
6 as the commissioner may deem proper, in addition to such award
7 as may be made to the employee's dependents.

Sec. 30. If the period of disability does not last longer
2 than one week from the day the employee leaves work as the re-
3 sult of the injury, no award shall be allowed, except the dis-
4 bursement provided for in sections twenty-seven and twenty-
5 nine.

6 (a). If the period of disability lasts longer than one week

7 from the day the employee leaves work as the result of the in-
8 jury, no award shall be allowed for the first week of such dis-
9 ability, except the disbursement provided for in sections twenty-
10 seven and twenty-nine.

Sec. 31. Where compensation is due an employee under
2 the provisions of this act, such compensation shall be as pro-
3 vided in the following schedule:

4 (a). If the injury causes temporary total disability, the
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5 employee shall receive during the continuance thereof fifty per
6 centum of his average weekly earnings, not to exceed a maxi-
7 mum of ten dollars per week, nor to be less than a minimum of
8 five dollars per week.

9 (b). If the injury causes temporary partial disability, the
10 employee shall receive during the continuance thereof fifty per
11 centum of the weekly loss in wages, not to exceed a maximum
12 of ten dollars per week.

13 (c). Paragraphs (a) and (b) of this sub-division shall be
14 limited as follows: Aggregate awards for a single injury caus-
15 ing temporary disability shall be for a period not exceeding
16 twenty-six weeks: *provided*, that in case an injured employee,
17 by reason of having an ununited fracture, or having undergone
18 a surgical operation to correct a vicious union following a frac-
19 ture, or for the repair of an ununited fracture, or having suf-
20 fered an injury to the spine or pelvic bones which is of a tem-
21 porary nature, is disabled for a longer period than twenty-six
22 weeks, the period for which compensation shall be paid may be,
23 but shall not exceed fifty-two weeks.

24 (d). If the accident causes permanent disability, the per-
25 centage of disability to total disability shall be determined and
26 award computed and allowed as follows:

27 For a ten per centum disability fifty per centum of the
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28 average weekly earnings for a period of thirty weeks;

29 For a twenty per centum disability, fifty per centum of
30 the average weekly earnings for a period of sixty weeks;

31 For a thirty per centum disability, fifty per centum of
32 the average weekly earnings for a period of ninety weeks;

33 For a forty per centum of disability, fifty per centum of
34 the average weekly earnings for a period of one hundred
35 and twenty weeks;

36 For a fifty per centum disability, fifty per centum of

37 the average weekly earnings for a period of one hundred
38 and fifty weeks;

39 For a sixty per centum disability, fifty per centum of
40 the average weekly earnings for a period of one hundred
41 and eighty weeks;

42 For a seventy per centum disability, fifty per centum
43 of the average weekly earnings for a period of two hundred
44 and ten weeks;

45 For a disability exceeding seventy per centum and less
46 than eighty-five per centum, forty per centum of the aver-
47 age weekly earnings during the remainder of life;

48 For disability from eighty-five to one hundred per cent-
49 um, fifty per centum of the average weekly earnings during
50 the remainder of life.

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51 (c). The award for permanent disabilities intermediate
52 to those fixed by the foregoing schedule and from ten per centum
53 to seventy per centum disabilities shall be in the same propor-
54 tion, and shall be computed and allowed by the commissioner.

55 (f). Paragraphs (d) and (e) of this sub-division shall be
56 limited as follows: Not to exceed a maximum of eight dollars
57 per week not to be less than a minimum of four dollars per week.

58 (g). The loss of an arm at or above the elbow shall be con-
59 sidered a fifty per centum to sixty-five per centum disability and
59-a shall be used as a basis in determining the per centum of
60 permanent disability. Account shall also be taken of the nature
61 of the physical injury, the occupation of the injured employee
62 and his age at the time of such injury.

63 (h). Nothing contained in the foregoing schedule of per-
64 manent disability award shall be held to limit the amount of
65 compensation recoverable for any such permanent injury dur-
66 ing any period of total disability under paragraphs (a) and (b)
67 of section thirty-one; but any sum so received shall be deducted
68 from the compensation payable in accordance with the said
69 schedule. Compensation under this section shall be payable
70 only to the injured employee, or to his dependents at the time
71 of the injury, and the right thereto shall not vest in his estate,
72 nor in the estate of his dependents.

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73 (i). The following permanent disabilities shall be conclu-
74 sively presumed to be total in character:

75 Loss of both eyes or the sight thereof;

76 Loss of both hands or the use thereof;

77 An injury resulting in practically total paralysis.

78 In all other cases, permanent total disability shall be de-
79 termined in accordance with the fact.

Sec. 33. In case the injury causes death within the period
2 of twenty-six weeks from date of injury, the benefits shall be in
3 the amounts and to the persons as follows:

4 (a). If there be no dependents, the disbursement shall be
5 limited to the expense provided for in section twenty-seven and
6 section twenty-nine of this act, and such award under section
7 thirty-one of this act as may have accrued and been paid.

8 (b). If the deceased employee be under the age of twen-
9 one and unmarried, and leave a dependent father or mother, the
10 father, or if there be no father, the mother shall be entitled to a
11 payment of fifty per centum of the average weekly wage, not to
12 exceed a maximum of six dollars per week, to continue until the
13 employee would have been twenty-one years of age, or until the
14 death of said dependent, if same occurs before said employee
15 would have been twenty-one years of age.

16 (c). If the deceased employee leave a widow or invalid

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17 widower, the payment shall be twenty dollars per month until
18 the death or remarriage of such widow or widower, and in addi-
19 tion five dollars per month for each child under the age at which
20 he or she may be lawfully employed in any industry, to be paid
21 until such child reaches such age; *provided*, that the total pay-
22 ment shall not exceed thirty-five dollars per month; and, *pro-*
23 *vided, further*, if such widow or invalid widower shall remarry
24 within two years from the date of the death of an employee,
25 such widow or widower shall be paid at the time of remarriage
26 twenty per centum of the amount that would be due for the
27 period remaining between the date of such remarriage and the
28 end of ten years from date of death of said employee.

29 The word "child", as used in this act shall include a posthu-
30 mous child, or a child legally adopted prior to the injury caus-
31 ing death.

32 (d). If the deceased employee be an adult and there be
33 no widow, widower or child under the age at which he or she
34 may be lawfully employed in any industry, but there are wholly
35 dependent persons at the time of death, the payment shall be
36 fifty pr centum of the average monthly support actually re-
37 ceived from the employee during the preceding twelve months,

38 to continue for the remainder of the period between the date
39 of death and six years after the date of injury, and shall not
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40 amount to more than a maximum of twenty dollars per month.

41 (e). If there be no widow, widower or child under the age
42 at which he or she may be lawfully employed in any industry,
43 or wholly dependent persons, but there are partly dependent
44 persons at the time of death, the payment shall be fifty per
45 centum of the average monthly support actually received from
46 the employee during the preceding twelve months, and to con-
47 tinue for such portion of the period of six years after the date
48 of death as the commissioner in case may determine, and not to
49 amount to more than a maximum of twenty dollars per month.

50 Compensation under sub-section (d) and (e) hereof to
51 cease upon the death of the dependent, and the right thereto
52 shall not vest in his or her estate.

53 (f). "Dependent", as used in this act, means a widow, in-
54 valid widower, child under fifteen years of age, invalid child over
55 such age or a posthumous child, who, at the time of the injury
56 causing death, is dependent in whole or in part for his or her
57 support upon the earnings of the employee; also, the following
58 persons who are and continue to be residents of the United
59 States or its territorial possessions; step-child under fifteen years
60 of age; child under fifteen years of age, legally adopted prior to
61 the injury causing death; father, mother, grandfather or grand-
62 mother, who, at the time of the injury causing death, is depend-

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63 ent in whole or in part for his or her support upon the earnings
64 of the employee.

Sec. 34. The benefits, in case of death, shall be paid to such
2 one or more dependents of the decedent, or to such other person,
3 for the benefits of all of the dependents, as may be determined
4 by the commissioner who may apportion the benefits among the
5 dependents in such manner as he may deem just and equitable.
6 Payment to a dependent subsequent in right may be made if the
7 commissioner deems proper, and shall operate to discharge all
8 other claims therefor.

Sec. 35. The dependent or person to whom benefits are
2 paid shall apply the same to the use of the several beneficiaries
3 thereof according to their respective claims upon the decedent
4 for support, in compliance with the finding and direction of the
5 commissioner.

Sec. 37. The average weekly wage or earnings of the injured person at the time of injury shall be taken as the basis upon which to compute the benefits. The time of injury within the meaning of this act shall be such reasonable time prior to the injury as shall enable the commissioner to make a fair award, taking into consideration both the rate of wage and earnings of such person prior to his entering the service in which he was injured.

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Sec. 38. Payments may be made in such periodical installments as may seem best to the commissioner in each case. Notwithstanding anything herein contained, the commissioner may, in his discretion, direct the repayment of, and pay out of any installment, any advances for necessities that may have been made by any person pending the payment of such installment.

Sec. 39. To entitle any employee or dependent of a deceased employee to compensation under this act the application therefor must be made in due form within six months from and after the date of injury or death, as the case may be, and all proofs of dependency in fatal cases must be filed with the commissioner within nine months from and after the date of death. Non-resident aliens may be officially represented by the consular officers of the country of which such aliens may be citizens or subjects.

Sec. 40. The power and jurisdiction of the commissioner over such case shall be continuing, and he may from time to time make such modification or change with respect to former findings or orders with respect thereto, as, in his opinion, may be justified.

Sec. 41. The commissioner, under special circumstances and when the same is deemed advisable, may commute periodical benefits to one or more lump sum payments.

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Sec. 43. The commissioner shall have full power and authority to hear and determine all questions within his jurisdiction, and to review the action of any employer taken under section fifty-four thereof, and the decision of the commissioner thereon shall be final; *provided, however*, in case of the final action of said commissioner denies the right of the claimant to receive compensation from the fund or directly from the employer, as the case may be, on the ground that the injury was self-inflicted, or on the ground that the accident did not arise out of and in

9 the course of employment, or upon any other ground going to
10 the basis of the claimant's right, then the claimant may, with-
11 in sixty days after notice of the final action of such commis-
12 sioner, apply for an appeal to the supreme court of appeals.
13 The appellant shall file a petition before said supreme court of ap-
14 peals against such commissioner as defendant, within said period
15 of sixty days, and the commissioner shall be notified by the clerk
16 of said court, forthwith, of the filing of such petition for appeal.
17 And the commissioner shall within ten days after the receipt of
18 such notice, file with the clerk of said court the record of such
19 proceedings before the commissioner, including a transcript of
20 the evidence. The court, or any judge thereof may, thereupon,
21 decide whether an appeal shall be granted or not. If granted,
22 the commissioner and the claimant or the claimant's attorney
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23 shall be notified of the fact by mail. If an appeal is granted the
24 case shall be tried by said court in the same manner as other
25 cases before it, save and except that neither the record nor briefs
26 need be printed, and that every such appeal granted prior to
27 thirty days before the beginning of any term shall be on the
28 docket for such term, and such appeals shall have precedence
29 over other cases on such docket. The attorney general, without
30 extra compensation, or other counsel, if the commissioner sees
31 fit to employ the same, shall represent the commissioner on such
32 appeal. The supreme court, on such appeal, shall determine the
33 right of the claimant and certify its decision to the commis-
34 sioner; and, if it determines the right in his favor, the commis-
35 sioner shall fix his compensation within the limits and under
36 the rules prescribed in this act. The cost of such proceedings,
37 including a reasonable attorney's fee, not exceeding one hundred
38 dollars, to the claimant's attorney, to be fixed by the court, shall
39 be taxed against the unsuccessful party. No fees, expenses or
40 costs, shall be paid out of any compensation awarded.

Sec. 14. Such commissioner shall not be bound by the
2 usual common law or statutory rules of evidence, or by any tech-
3 nical or formal rules of procedure, other than herein provided,
4 but may make the investigation in such manner as in his judg-
5 tary of the commissioner may be designated by the commissioner

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6 to act during his absence or inability to act, and during such
7 period he shall have all the duties and powers of the commis-
8 sioner.

Sec. 45. The commissioner may make necessary expenditures to obtain statistical and other information to establish the classes provided for in section eighteen.

Sec. 46. Annually on or about the fifteenth day of September in each year, the commissioner under oath, shall make a report as of the thirtieth day of June, to the governor, which shall include a statement of the number of awards made by him, and a general statement of the causes of the accidents leading to the injuries for which the awards were made; a detailed statement of all disbursements, and the condition of the fund, together with any other matters which such commissioner deems it proper to call to the attention of the governor, including any recommendations he may have to make, and the commissioner, whenever required by the governor, shall report to him as to any designated subject or matter, and furnish such information as may be required.

Sec. 48. The auditor shall issue his warrant for any disbursement hereunder only when approved in writing by the commissioner. Whenever it shall appear that the commissioner will be absent or unable to act for one week or more, the secretary of the commissioner may be designated by the commissioner to act during his absence or inability to act, and during such period he shall have all the duties and powers of the commissioner.

Sec. 49. Any person, firm or corporation, knowingly failing to make any report or perform any duty required by the commissioner within the time specified, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than twenty-five hundred dollars. Any person, or firm, or the officer of any corporation, who knowingly makes a false report or statement under oath, or affidavit respecting any information required by the commissioner, or who shall knowingly testify falsely in any proceeding before the commissioner, shall be deemed guilty of perjury and upon conviction thereof shall be punished as provided by law.

Sec. 51. Whenever and as often as there shall be in the hands of the treasurer any sum belonging to the workmen's compensation fund not likely, in the opinion of the commissioner, to be required for immediate use, it shall be the duty of the board of public works, when called upon by the commissioner, to loan such sum or to invest the same in interest bearing securities, and when and as it may become necessary or expedient to use

8 the moneys so loaned or invested by board of public works shall,
9 when called upon by the commissioner, collect or sell or otherwise
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10 realize upon any such loan or investment, and any interest ac-
11 cruing upon any such loan or investment, as well as any interest
12 received upon the deposit of moneys belonging to said fund, shall
13 be credited to said fund.

Sec. 52. In case any employer within the meaning of this
2 act is also engaged in interstate and foreign commerce, this act
3 shall apply to him, only to the extent that his mutual connection
4 with work in this state is clearly separable and distinguishable
5 from his interstate work; and, in such case, such employer and
6 any of his employees thus engaged in both interstate and inter-
7 state work, may, with the approval of the commissioner, elect
8 to pay into the fund the premiums provided in this section ac-
9 count of work done in this state only, by filing written accep-
10 tances, or a joint election with the commissioner; and such elec-
11 tion, when filed and approved by the commissioner, shall subject
12 the acceptors irrevocably to the provisions of this act to all in-
13 tents and purposes as if they had been originally included in its
14 terms. Payments of premiums shall be on the basis of the pay-
15 roll of the employees who accept aforesaid, for work done in this
16 state only.

Sec. 54. Notwithstanding anything contained in this act,
2 employers subject to this act who are of sufficient financial re-
3 sponsibility to insure the payment of compensation to injured
4 employees and the dependents of fatally injured employees,
5 whether in the form of pecuniary compensation or medical at-
6 tention, funeral expenses or otherwise herein provided, of the
7 value at least equal to the compensation provided in this act, or
8 employers of such financial responsibility who maintain their own
9 benefit funds or systems of compensation, to which their em-
10 ployees are not required or permitted to contribute; or, such em-
11 ployers as shall furnish bond or other security to insure such pay-
12 ments, may, upon a finding of such facts by the compensation
13 commissioner, elect to pay individually and directly or from such
14 benefit funds, department or association the said compensation
15 and expenses to injured employees or fatally injured employees'
16 dependents; and the compensation commissioner shall require
17 such security or bond from said employer to be approved by him
18 and of such amount as is by him considered adequate and suffi-
19 cient to compel or secure said employees, or their dependents,

20 payment of the compensation and expenses herein provided for,
21 which shall in no event be less than the compensation paid or
22 furnished out of the state workmen's compensation fund in simi-
23 lar cases, to injured employees or the dependents of fatally in-
24 jured employees whose employers contribute to said fund. Said
25 commissioners shall make and publish rules and regulations gov-
26 erning the mode and manner of making application, and the na-
27 ture and extent of the proof required to justify the finding of
28 facts by said commissioner, to consider and pass upon such elec-
29 tion by employers subject to this act, which said rule and regu-
30 lations shall be general in their application; and any employer
31 subject to this act who shall elect to carry his own risk, and who
32 has complied with the requirements of this section, and the rules
33 of the compensation commissioner, shall not be liable to respond
34 in damages at common law or by statute for the injury or death
35 of any employee, however occurring, after such election and dur-
36 ing the period that he is allowed to carry his own risk by said
37 commissioner; *provided*, the injured employee has remained in
38 his service with notice given, as provided for in section twenty-
39 three of this act, that his employer has elected to carry his own
40 risk as herein provided; and *provided, further*, that any employer
41 whose record upon the books of the public service commission or
42 compensation commissioner shows a liability against the work-
43 men's compensation fund, incurred on account of injury to, or
44 death of, any of his employees, in excess of premiums paid by said
45 employer, shall not be granted the right to individually and di-
46 rectly, or from such benefit funds, department or association, to
47 compensate his injured employees and the dependents of his
48 fatally injured employees until he has paid into the workmen's
49 compensation fund the amount of said excess of liability incurred
50 on account of explosions or catastrophes occurring within the
51 state and charged against said fund.

52 And, *provided, further*, that in any case under the provisions
53 of this section that shall require the payment of compensation
54 or benefits by an employer in periodical payments, and the nature
55 of the case makes it possible to compute the present value of all
56 future payments, the commissioner may, in his discretion, at
57 any time, compute the permit or require to be paid into the work-
58 men's compensation fund an amount equal to the present value of
59 all unpaid compensation for which liability exists, in trust; and,
60 thereupon, such employer shall be discharged from any further

61 liability upon such award and payment of the same as shall be
62 assumed by the workmen's compensation fund.

Sec. 56. All acts and parts of acts in conflict with this act
2 are hereby repealed.

Senate Bill No. 236

AN ACT to amend and re-enact section 29-b-III of chapter one hundred and fifty of the code of one thousand nine hundred and thirteen, serial section fifty-three hundred and ninety-two, relating to the appointment of the board of pharmacy, and limiting the number of members of said board to five.

Be it enacted by the Legislature of West Virginia:

That section 29-b-III of chapter one hundred and fifty of the code of one thousand nine hundred and thirteen, serial section fifty-three hundred and ninety-two, be amended and re-enacted so as to read as follows:

Section 29-b-III. The board of pharmacy shall consist of five
2 members, who shall be voters of this state, licensed as pharma-
3 cists and actively engaged in the practice of pharmacy, appointed
4 by the governor by and with the advice and consent of the senate,
5 each for the term of five years; one member to be appointed each
6 year as the terms of office of the present members shall respective-
7 ly expire. Any person appointed in the recess of the senate shall
8 serve until the next meeting of the senate; vacancies shall be
9 filled by appointment by the governor for the unexpired term; a
10 majority of the board shall constitute a quorum for the trans-
11 action of business; the president and secretary shall have power to
12 administer oaths in all matters relating to the examination and
13 registration of pharmacists and assistant pharmacists.

14 All acts and parts of acts inconsistent herewith are hereby re-
15 pealed.

Senate Bill No. 82

AN ACT providing for the collection, examination and testing of seeds sold in West Virginia for agricultural purposes, and certificates for their purity and providing penalty for violations thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. No person, firm or corporation shall, by himself, his agent, or as representative of any other person, firm or corporation, sell or offer for sale or distribution within the state, for seeding purposes, any lot or package of agricultural seeds exceeding one pound in weight unless the same, when put up in either open or closed packages, shall have attached thereto a label on which is plainly printed or written in the English language, the following:

(1) The commonly accepted name of the kind and variety of seed.

(2) Full name and address of seedman, importer, agent or dealer.

(3) Statement of purity of the seed contained therein. (Impurities defined in sections three, four and five thereof.)

(4) Germinating power of seed.

(5) Locality where seed was grown, if known.

Sec. 2. For the purposes of this act the term "agricultural seeds" shall include seed of the red clover, either medium or mammoth, white clover, alsike clover, alfalfa, timothy, orchard grass, Kentucky blue grass, red top, bromis inermis, oat grass, rye grass, the fescues, the millets, other grass and forage plants, flax, rape, buckwheat, and cereals.

Sec. 3. No agricultural seeds, as defined in section two of this act, shall be sold or offered for sale or distribution within the state, which contain in greater numbers than one to three thousand of the seeds under examination the seeds of the following named noxious weeds: Canada thistle (*Carduus arvensis* L.), Russian thistle (*Salsola tragus* L.), couch, quack or quitch grass (*Agropyron repens* L.), clover dodder (*Cuscuta epithymum* L.), alfalfa dodder (*cuscuta arvensis*), field dodder (*Cuscuta arvensis* L.), English charlock or wild mustard (*Brassica arvensis* L.), wild oats (*Avena fatua* L.), corn cockle (*lychnis githago*), ox-eye daisy (*chrysanthemum leucanthemum*), indian mustard (*brassica juncea*), butter and eggs (*linaria linaria*), sow thistle (*sonchus*

13 *arvensis*), ribwort or English plantain (*plantago lanceolata*), vel-
14 vet weed (*abutilon abutilon* L.), or star thistle (*centaurea repens*
15 L.), and wild carrot (*daucus carota* L.).

16 2. Where the seeds of the weeds herein mentioned are pre-
17 sented in fewer numbers than one to three thousand of the seed
18 being examined, a statement shall be made on the label attached
19 to the package naming the weed seeds present therein.

Sec. 4. 1. The seeds of the following named weeds shall
2 be classed as impurities in agricultural seeds, as defined in sec-
3 tion two of this act: sheep sorrel (*rumex acetosella*), green fox-
4 tail (*chaetochloa viridis* L.), yellow fox-tail or pigeon grass
5 (*chaetochloa glauca* L.), night flowering catch-fly (*silene nocti-*
6 *flora* L.), black seeded plantain (*plantago rugelii*), common
7 plantain (*plantago major*), curled dock (*rumex crispus*), pigweed
8 (*amaranthus retroflexus* L.), lamb's quarters (*ghemopodium al-*
9 *bum* L.), lady's thumb or smart weed (*polygonum persicaria*),
10 yellow trefoil (*trifolium agarium* L.), burr clover (*medicago*
11 *denticulata*), sweet clover (*melilotus alba and officinalis*), chick-
12 weed (*cerastium vulgatum*), orange hawkweed (*hienacium auran-*
13 *tiacum* L.), black bindweed (*polygonum convolvulus* L.), rag-
14 weed (*ambrosia artemisiaefolia* L.).

15 2. When such impurities, or any of them, are present in
16 quantity exceeding two per cent of said agricultural seeds, the
17 approximate percentage of each shall be plainly stated on the
18 tag attached as specified in section one of this act.

Sec. 5. Sand, dirt, sticks, broken seeds, other seeds than
2 those mentioned in sections 3 and 4 of this act, or any other foreign
3 matter shall be considered as impurities when mixed with agricul-
4 tural seeds sold, offered or exposed for sale in this state for seed-
5 ing purposes. When such impurities are present in seed exceed-
6 ing two per cent. in weight, the name and approximate percent-
7 age of each kind of impurity shall be stated in the label as speci-
8 fied in section one of this act.

Sec. 6. Agricultural seeds containing five per cent. or more
2 by weight of agricultural seed other than the named sample, shall
3 be plainly labeled with the percentage of such seed.

Sec. 7. Agricultural seed shall be considered as misbranded:

2 (1) When seeds low in value are submitted under the
3 label for those of similar appearance but greater value;

4 (2) When southern-grown seeds are labeled as northern
5 grown;

5-a (3) When seeds are in any other respect not true to the
6 label under which they are sold or offered for sale;

7 (4) When seeds are sold under any label other than that
8 of the dealer selling same;

9 (5) When labels or tags supplied by a wholesale dealer
10 are attached to lots of seed not purchased from such wholesale
11 dealer, or to lots of seed other than those for which they were in-
12 tended to be used.

13 When so misbranded, agricultural seeds, as defined herein,
14 shall not be sold or offered for sale within the state.

Sec. 8. The provisions of this act shall not be construed
2 as applying to:

3 (1) Any person growing, possessing for sale, or selling
4 seeds for food purpose only.

5 (2) Persons selling seeds containing impurities except as
6 defined in section three of this act, providing such seeds are
7 sold to merchants to be re-cleaned before exposing for sale upon the
8 general market.

9 (3) Seeds that are in store for the purpose of re-cleaning,
10 and which are not possessed, sold, or offered for sale for seed
11 purposes.

12 (4) Seeds grown or sold and delivered from the farm by the
13 owner thereof, or his agent when the buyer himself is to use the
14 seed for seeding purposes only, unless the purchaser obtain a certifi-
15 cate at the time of sale stating that the seed is sold subject to the
16 provisions of this act.

17 (5) Mixture of seeds for lawn purposes except that the
18 sale of such mixtures is subject to the restrictions of sections three
19 and four of this act.

Sec. 9. For the purpose of this act seed shall be deemed
2 pure when it contains no seed of any kind except the one being
3 examined.

Sec. 10. The enforcement of this act is hereby placed in
2 the department of agriculture under the supervision of the com-
3 missioner of agriculture, and he is hereby empowered to appoint
4 such inspectors and assistants as may be necessary to execute its
5 provisions.

Sec. 11. The commissioner of agriculture is authorized
2 in person or by deputy to have free access to all places of busi-
3 ness, mills, buildings, carriages, cars, vessels and parcels of
4 whatsoever kind used in the manufacture, transportation, im-

5 portation, sale or storage of any agricultural seeds, and shall
6 have the power and authority to open any parcel containing or
7 supposed to contain any agricultural seeds, and upon tender and
8 full payment of the selling price of said sample, to take therefrom
9 in the manner prescribed in this section, samples for analysis,
10 and said commissioner of agriculture shall annually cause to be
11 analyzed at least one sample so taken of all the agricultural seeds
12 that are found sold, offered or exposed for sale or distributed in
13 this state.

14 A representative sample of not less than two nor more than
15 four ounces of each brand of agricultural seeds found sold, offered
16 or exposed for sale shall be taken by the said commissioner of
17 agriculture or his duly authorized representative in the presence
18 of at least one witness. No action shall be maintained for a
19 violation of the provisions of this act, based upon any analysis
20 of a sample from less than five separate original packages, unless
21 there be less than five separate original packages in the lot, in which
22 case portions for the official sample shall be taken from each origi-
23 nal package; if the agricultural seed is in bulk, portions shall be
24 taken from not less than five different places in the lot; *pro-*
25 *vided*, that this does not exclude sampling in bulk when not ex-
26 posed sufficiently to take portions from five different places, in
27 which case portions are to be taken from as many places as prac-
28 ticable. If the sample thus secured is larger than is required,
29 it shall be mixed and quartered until a sample of suitable size re-
30 mains. Said sample shall be divided into two parts and shall
31 be placed in packages and sealed in the presence of said witness.
32 One of said packages so sealed shall be held by the commissioner
33 of agriculture at the disposal of the person named on the label
34 of the seed sampled, and the commissioner of agriculture shall
35 cause the other sample to be examined and tested, both for purity
36 and viability and shall report results promptly and shall publish
37 the same in bulletin form. The methods of examination and
38 testing shall be those in force at the time by the United States
39 department of agriculture.

Sec. 12. The results of all tests of seeds made under the
2 provisions of this act, shall be published in bulletins of the
3 department of agriculture, together with the names and post office
4 addresses of the persons, firms or corporations from whom all
5 samples tested were obtained.

Sec. 13. Guarantees of purity, and viability shall be based
2 upon tests made by the commissioner of agriculture or by seed

3 dealers or their agents, subject to re-test and ratification by the
4 commissioner of agriculture, when he shall deem necessary.
5 Dealers who are testing their own seeds shall be required to submit
6 samples thereof to the commissioner of agriculture for re-testing
7 upon demand of the inspector. Should the guarantees shown on
8 the dealer's label not be substantially equivalent to the actual
9 value of the seed, as determined by the commissioner of agricul-
10 ture, the dealer shall be subject to prosecution and penalty, as de-
11 fined in section fourteen of this act. Printed standards of purity
12 and germination of agricultural seeds and directions for making
13 analysis of seeds shall be furnished by the commissioner of agri-
14 culture upon request.

Sec. 14. Whoever violates any of the provisions made in
2 any section of this act, or who shall attempt to interfere with the
3 inspectors or assistants in the discharge of the duties named
4 herein, shall be guilty of a misdemeanor and upon conviction
5 shall be punished by a fine of not less than ten nor more than one
6 hundred dollars for each and every offense.

Sec. 15. A fee of twenty-five cents shall be collected for
2 each sample of seed offered for examination and test under the
3 provisions of this act and shall be paid into the state treasury to
4 constitute a special fund, which shall be paid out on requisitions
5 of the commissioner of agriculture in carrying out the provisions
6 of this act; *provided, however*, this fee shall not be collected from
7 persons who desire analysis of seed for their own personal use.

Sec. 16. The commissioner of agriculture shall seek to make
2 the inspection of seeds hereby intrusted to him as helpful as pos-
3 sible to the purchasers of seeds in this state, and is hereby em-
4 powered to make such rules and regulations as may be necessary
5 to carry into effect the full intent and meaning of this act; the
6 said commissioner of agriculture shall report promptly to the
7 prosecuting attorney of the county in which the offense was com-
8 mitted, any violations of this act and all failures to comply there-
9 with, and it shall be the duty of the prosecuting attorney in any
10 county in which such offense is committed to prosecute the same.

Senate Bill No. 170

AN ACT to amend and re-enact chapter ninety-six of the acts of the
session of one thousand eight hundred and eighty-two, (serial

section 2889 of the code of one thousand nine hundred and thirteen), prescribing a method of procedure in equity for the dissolution of a corporation or joint stock company on application of not less than one-fifth in interest of the stockholders.

Be it enacted by the Legislature of West Virginia:

That chapter ninety-six of the acts of the session of the year one thousand eight hundred and eighty-two be and the same is hereby amended so as to read as follows:

Section 1. If not less than one-fifth in interest of the stockholders of a corporation desire to wind up its affairs, they may apply by bill in chancery to the circuit court of the county in

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4 which the principal office or place of business of such corporation is situated, or if there be no such office or place of business in this state, to the circuit court of the county in which the other stockholders, or any one or more of them reside or are found, or in which the property of such corporation or any part of it may be, setting forth in the bill, the grounds of their application, and the court may thereupon proceed according to the principles and usages of equity to hear the matter, and if sufficient cause, to decree a dissolution of the corporation, and make such orders and decrees, and award such injunctions in the cause as justice and equity may require; and this section shall have a retrospective as well as a prospective effect, and be construed accordingly.

Senate Bill No. 35

AN ACT to punish the making or use of false statements to obtain property or credit.

Be it enacted by the Legislature of West Virginia:

Section 1: Any person who shall knowingly make or cause to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself, or any other person, firm or corporation, in whom or in which he is interested, or for whom or for which he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the

9 making of a loan or credit, the extension of a credit, the discount
10 of an account receivable, or the making, acceptance, discount, sale
11 or indorsement of a bill of exchange, or promissory note, for the
12 benefit of either himself or of such person, firm or corporation; or,

Sec. 2. Who, knowing that a false statement in writing
2 has been made, respecting the financial condition or means or
3 ability to pay, of himself, or such person, firm or corporation in
4 which he is interested, or for whom he is acting, procures, upon
5 the faith thereof, for the benefit either of himself, or of such per-
6 son, firm or corporation, either or any of the things of benefit men-
7 tioned in section one; or,

Sec. 3. Who, knowing that a statement in writing has been
2 made, respecting the financial condition or means or ability to pay
3 of himself or such person, firm or corporation, in which he is in-
4 terested, or for whom he is acting, represents on a later day, either
5 orally or in writing, that such statement theretofore made, if then
6 again made on said day, would be then true, when in fact, said
7 statement if then made would be false, and procures upon the faith
8 thereof, for the benefit either of himself or of such person, firm or
9 corporation, either or any of the things of benefit mentioned in
10 section one of this act, shall, upon conviction thereof, be guilty of
11 a misdemeanor, and punished by imprisonment for not more than
12 one year or by a fine of not more than one thousand dollars, or
13 both fine and imprisonment.

Senate Bill No. 48

AN ACT to provide against fraudulent advertising and fixing penal-
ties for its violation.

Be it enacted by the Legislature of West Virginia:

Section 1. Any person, firm, corporation or association, or their
2 agents or employees, who with intent to sell, or in any wise dis-
3 pose of merchandise, securities, service, or anything offered by such
4 person, firm, corporation or association, directly or indirectly, to the
5 public for sale or distribution, or with intent to increase the con-
6 sumption thereof, or to induce the public in any manner to enter in-
7 to any obligation relating thereto, or to acquire title thereto, or an
8 interest therein, causes, directly or indirectly, to be made, published,
8-a disseminated, circulated, or placed before the public, in this state,

9 in a newspaper or other publication, or in the form of a book,
10 notice, hand-bill, poster, bill, circular, pamphlet or letter, or in
11 any other way, an advertisement of any sort regarding merchan-
12 dise, securities, service, or anything so offered to the public, which
13 advertisement contains any assertion, representation or state-
14 ment of fact which is untrue, and deceptive, knowing or having
15 reason to believe that such assertion, representation or statement
16 is untrue or deceptive, shall be guilty of a misdemeanor and on
17 conviction thereof, shall be punished by a fine of not less than ten
18 dollars nor more than one hundred dollars, and such violation, by
19 an agent or employee, shall be deemed an offense as well by the
20 principal or employer, and they may be indicted for the same,
21 either jointly or severally.

Sec. 2. All acts or parts of acts inconsistent herewith are
2 hereby repealed.

Senate Bill No. 83

AN ACT to amend and re-enact sub-section ten of section two of chapter seventy of the acts of one thousand eight hundred and ninety-one, printed as serial section three hundred and thirty-six of the code of one thousand nine hundred and six, and serial section three hundred and ninety-one of the code of one thousand nine hundred and thirteen, concerning the powers, duties and liabilities of the state librarian; and to repeal certain conflicting laws.

Be it enacted by the Legislature of West Virginia:

That sub-section ten of section two of chapter seventy of the acts of one thousand eight hundred and ninety-one, be amended and re-enacted so as to read as follows:

Sub-Section 10. The state librarian shall have charge of the
2 reports of the supreme court of appeals after the same are printed
3 and bound and approved by the reporter, and he shall secure the
4 copyright of the same in the name of and for the benefit of the
5 state. As soon as practicable after any new volume of such reports
6 has been delivered to him, not including reprints of former vol-
7 umes, he shall dispose of the same as follows: ten copies to the
8 college of law of West Virginia university, one copy to the gover-

9 nor, two copies to the attorney general, one copy to the judge of
10 every court of this state and one copy to the head of each of the
11 subordinate executive departments at the state capital, one copy
12 to the public service commission, one copy to the state board of
13 control, one copy to the adjutant general, two copies to the depart-
14 ment of archives and history, and one copy to each of any other
15 administrative boards or commissions at the state capital. The
16 state librarian shall place five copies in the state law library at
17 Charleston, and send five copies to the congressional law library at
18 Washington, District of Columbia. He shall also arrange as far
19 as possible to exchange four copies of each volume of said reports
20 for a like number of copies of the current volumes of the report of
21 the court of appeals of each of the states, which said last reports
22 he shall send one each to the state law library at Charleston, to the
23 college of law of West Virginia university, to the association at
24 Charles Town, and to the Ohio county library at Wheeling. The
25 remaining copies of said reports of the supreme court of appeals
26 the state librarian shall deliver to the secretary of state, to be
27 disposed of by said secretary as provided by law: *provided*, that
28 the governor may, in writing, cause additional copies of said re-
29 ports to be furnished to any officer, court, institution or board now
30 entitled to one or more copies; and he may also cause one or more
31 copies of said reports to be furnished to any officer, board, com-
32 mission, institution or tribunal not named herein. The copies of
33 said reports furnished to any officer or judge, or library, or board
34 shall remain the property of the state of West Virginia, and as to
35 any such judge or officer the copy received by him shall be turned
36 over to his successor in office. The copies furnished to any library,
37 board or commission shall be safely kept therein. The state
38 librarian shall make an annual report to the governor within thirty
39 days after the close of each fiscal year, in which he shall state the
40 number of copies of reports and session acts received by him, and
41 what disposition he made thereof, and also what moneys came into
42 his hands, and from what sources, during the preceding fiscal year,
43 for books sold or from any other source, all of which moneys the
44 state librarian shall pay into the state treasury monthly.

45 Joint resolution number five of January twenty-
46 first, one thousand nine hundred and three, if the same be now in
47 force, and which is printed as serial section three hundred and
48 eighty-one to three hundred and eighty-three of the code of one

49 thousand nine hundred and thirteen, and all acts or parts of acts
50 coming within the purview of this act and inconsistent therewith,
51 are hereby repealed.

Senate Bill No. 68

AN ACT requiring the plat of a tract of land sub-divided into lots to
be recorded, and providing a penalty for the failure to record,
and the method of collecting and distributing the penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. When any tract or parcel of land within the limits
2 of any county of the state of West Virginia, which has been or
3 shall be hereafter sub-divided into lots, and any lot or lots have
4 been sold from the tract or parcel of land so divided according
5 to said plan or plat of sub-division, without said plat of sub-di-
6 vision having been recorded, it shall be the duty of the owner of
7 said tract of land, or the legal representatives thereof, authoriz-
8 ing said plat or plan of sub-division of such tract of land to be
9 laid out, to record said plat of such sub-division in the office of the
10 clerk of the county court of the county wherein such land so di-
11 vided is situate, upon sixty days' notice to record the same from
12 the clerk of the county court of the county wherein such land so
13 divided is situate; or upon a notice from any person owning a
14 lot or lots in any such tract of land or parcel of real estate so di-
15 vided. If such owner, or owners, or the legal representatives
16 thereof shall fail to cause said plat of said sub-division of said
17 tract of land as aforesaid to be recorded in said office, such owner
18 or owners, or the legal representatives thereof, shall forfeit and
19 pay the sum of one hundred dollars for each failure to record such
20 plat of such tract or parcel of land. Said sum or sums to be re-
21 covered, as debts of like amount are by law recoverable at the suit
22 of any party or parties giving such notice, or the clerk of the coun-
23 ty court of the proper county before any justice of the peace in
24 and for said county. The party bringing such suit shall be en-
25 titled to one-half of the amount so recovered and the other half
26 shall go to the county fund of said county. No certificate of ac-
27 knowledgment, or other proof thereof shall be necessary as a pre-
28 requisite to the recordation of such plat, map or plan.

Senate Bill No. 76

AN ACT to amend chapter fifty-eight of the acts of one thousand nine hundred and nine, by inserting therein, after section three, a section to be known as section three-*a*, changing the names of certain state hospitals and asylums.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-eight of the acts of the year one thousand nine hundred and nine be and the same is hereby amended by inserting therein, after section three, the following section:

Section 3-*a*. From and after the thirtieth day of June of the year one thousand nine hundred and fifteen, the name of the West Virginia asylum shall be changed to Huntington state hospital; the name of the second hospital for the insane shall be changed to Spencer state hospital; the name of the West Virginia hospital for the insane shall be changed to Weston state hospital; the name of miners' hospital number one, shall be changed to Welch hospital number one; the name of miners' hospital number two, shall be changed to McKendree hospital number two; the name of miners' hospital number three shall be changed to Fairmont hospital number three. All statutory provisions applicable to the government and maintenance of said asylums and hospitals and to each of them, under their old names, shall be continued in force and be applicable to the government and maintenance of the same institutions under their new names.

All acts and parts of acts inconsistent with this act are hereby repealed.

Senate Bill No. 104

AN ACT to amend and re-enact sections one, two, three, four, five, six, seven and eight of chapter fifteen of the acts of the legislature of one thousand eight hundred and ninety-seven, providing "for the protection of persons dealing in mineral waters, malt liquors, and other beverages in bottles."

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven and eight of chap-

ter fifteen of the acts of the Legislature of one thousand eight hundred and ninety-seven be amended and re-enacted so as to read as follows :

Section 1. Any person, firm or corporation, manufacturing, producing, selling, or dealing in milk, cream, buttermilk, mineral waters or other liquids, in bottles, and who sell the contents, but do not sell the bottles, shall be called and known as bottlers, and as such may adopt a trade-mark in the manner and with effect hereinafter provided.

Sec. 2. Every such bottler desiring to adopt a trade-mark, may do so by the execution of a writing in form and effect as follows:

3 *Trade-Mark.*

4 "Notice is hereby given that I (or we, etc., as the case
5 may be), have adopted the following trade-mark to be
6 used in my (or our, etc.,) business as a bottler (Here
7 insert the words, letters, figures, etc., constituting the
8 trade-mark, or if it be any device other than words, let-
9 ters or figures, etc., insert a fac-simile thereof.) Dated
10 this ————— day of —————, A. D. — A. B.

11 The said writing shall be acknowledged or proved for record in
12 the same manner as deeds are acknowledged or proved for record,
13 and shall be recorded in the office of the clerk of the county court
14 of the county where the principal office or place of business of such
15 bottler may be, and also in the office of the secretary of state and
16 a copy thereof shall be published at least once in each week, for
17 four successive weeks in some newspaper printed in such county,
18 or if there be no such paper printed therein, then in some news-
19 paper of general circulation in such county.

Sec. 3. Every trade-mark so adopted shall, from the date there-
2 of, be the exclusive property of the person, firm or corporation
3 adopting the same, and any other person, firm or corporation
4 knowingly using, or attempting to use, such trade-mark without
5 the written consent of the proprietor thereof shall be guilty of a
6 misdemeanor and fined not less than twenty nor more than two
7 hundred dollars for each offense, and shall moreover be liable to the
8 proprietor by reason of such use of said trade-mark; and such use,
9 or attempt to use, shall be restrained by a writ of injunction
10 which shall be granted and awarded, upon the application of the
11 proprietor of such trade-mark, by any court of chancery having
12 jurisdiction of the parties.

Sec. 4. It is hereby declared to be a misdemeanor for any
2 person, firm, or corporation hereafter, without the permission of
3 the proprietor of such trade-mark, to re-fill with milk, cream,
4 buttermilk, mineral waters, or other liquids, any such bottles so
5 marked, or sell or use any such bottles so marked, or to have in his
6 possession for the purpose of buying, selling or using for bottling
7 milk, cream, buttermilk, mineral waters, or other liquids, any
8 bottles so marked. And upon conviction thereof, the offender
9 shall be fined not exceeding one hundred dollars, and may in the
10 discretion of the court be sentenced to confinement in the county
11 jail for a term not exceeding thirty days. And if it be alleged in
12 the indictment on which he is convicted, and admitted, or by the
13 jury found, that he has been before sentenced in this state for a
14 like offense, he shall be sentenced to be confined in the county jail
15 for a term not exceeding one year.

Sec. 5. In any legal proceeding, civil or criminal, before any
2 court or justice of the peace, the fact that such trade-mark is
3 stamped, impressed, blown or otherwise wrought in any such bottle,
4 shall be *prima facie* proof that such bottle is the property of the
5 proprietor of such trade-mark.

Sec. 6. In any prosecution for a violation of any provision of
2 this act, the fact that the defendant filled with milk, cream, butter-
3 milk, mineral waters, or other liquids, or sold or disposed of, or
4 bought, or trafficked in any such bottles so marked, without the
5 permission of the proprietor of such trade-mark, shall be *prima*
6 *facie* proof that he did so unlawfully.

Sec. 7. The proprietor of any such trade-mark, or any agent of
2 such proprietor, having reason to believe that any such bottle so
3 marked, is hidden, secreted, or unlawfully held by any person
4 whomsoever, at any place, in this state, may go before any justice
5 of the peace of the county, and make oath that he has reason to
6 believe that certain bottles, bearing certain trade-marks, are un-
7 lawfully hidden, secreted, or held at a certain place, naming the
8 place, by a certain person, naming the person, if the name be
9 known, and describing the trade-mark, whereupon it shall be the
10 duty of the justice before whom such oath is made, to issue a
11 search warrant directed to any constable or other proper officer, to
12 search the place where such bottles are alleged to be, and if upon
13 such search any such bottles shall be found, to take possession of
14 the same, and to bring the person, or persons, in whose control, or

15 possession any such trade-marked bottles may be found, before
16 such justice to be dealt with according to law.

17 And all such bottles so found shall be delivered by the officer to
18 the proprietor of the trade-mark on them; *provided*, that none of
19 the foregoing sections shall be construed to affect the right of any
20 dealer to continue to use any bottles upon which is not marked or
21 into which no mark has been blown, which he may now have in his
22 possession.

Sec. 8. All of the provisions of this act shall apply to trade-
2 marks whether the same shall have been heretofore, or shall be
3 hereafter, adopted as provided for by any former act of the legis-
4 lature, or under this act; *provided, however*, that the word
5 "liquids" as used in this act shall not be construed to mean or em-
6 brace intoxicating liquors, as intoxicating liquors are defined by
7 the prohibitory laws of this state.

Senate Bill No. 342

AN ACT to amend and re-enact chapter fifty-eight of the code of West
Virginia, concerning insane persons, and to repeal chapter fifty-
eight-*a* of the code of one thousand nine hundred and thirteen,
and all inconsistent acts.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-eight-*a* of the code of one thousand nine hundred
and thirteen, and all other acts inconsistent with this act, are hereby
repealed; and that chapter fifty-eight of the code of West Virginia is
hereby amended and re-enacted so as to read as follows:

Section 1. The West Virginia hospital for the insane, at Wes-
2 ton, shall hereafter be known as the Weston state hospital; the sec-
3 ond hospital for the insane, at Spencer, shall hereafter be known as
4 the Spencer state hospital; and the West Virginia asylum, at
5 Huntington, shall hereafter be known as the Huntington state
6 hospital. Each of the said hospitals shall remain at their respect-
7 ive locations, and shall be managed, governed and controlled by
8 the state board of control (hereinafter called the state board) as
9 provided in chapter fifty-eight of the acts of one thousand nine
10 hundred and nine, and further as provided in this chapter.

Sec. 2. The word "lunatic", wherever it occurs in this chapter, shall be construed to include every insane person who is not an idiot.

Sec. 3. The state board shall have authority to make and adopt rules and regulations, not contrary to law, for the government and control of each of said hospitals; prescribing the powers and duties of the officers and employees thereof: regulating the admission of patients thereto, and the release, parole and discharge of patients therefrom; and providing for the care, maintenance and treatment of the patients therein. Said board shall also have authority to transfer patients from any one of said hospitals to another, and to transfer any inmate from any institution under its control and management to any one of said hospitals, and from any one of said hospitals to any of said institutions (except the penitentiary); to prepare, prescribe and have printed forms to be used in committing patients to any of said hospitals; in order to make provision in cases of scarcity of room, to divide into classes patients to be admitted thereto, so that admission shall be according to the relative need of patients for medical care and treatment in a hospital; and, for the same reason, to cause to be returned to their relatives, or to the counties whence they came, patients who are harmless and incurable, including doltards, feeble-minded, imbeciles and idiots.

The governor and the state board shall each have authority to have any one of said hospitals inspected or investigated by an expert or experts, at any time either may think necessary. And the governor, when done upon his order, may pay the expense thereof out of the civil contingent fund; and the state board, when done upon its order, may pay the same out of the current expense fund of the institution inspected or investigated.

Sec. 4. There is hereby established in each county a commission of lunacy, to be composed of the president of the county court, the prosecuting attorney and the clerk of the county court, who shall serve as such without compensation, except for traveling or other necessary expenses incurred in the discharge of their duties as members of the commission, which expenses shall be audited by the county court and paid out of the county treasury; *provided*, that if the president of the county court shall not reside conveniently to the county seat and for that reason, or for other reason, shall desire not to serve as a member of the commission, the county court may choose one of its other members as a member of said

12 commission. The president of the county court, or other member
13 thereof chosen in his stead, as above provided, shall be the chair-
14 man of the commission. In his absence, the prosecuting attorney
15 shall act as such chairman, the clerk of the county court shall be
16 the clerk of the commission, and shall keep in a proper book pro-
17 vided for the purpose the full and careful proceedings of all the
18 acts, orders and resolutions of the commission. Two members of
19 the commission shall be a quorum thereof.

Sec. 5. If any resident of a county suspect any person
2 therein to be a lunatic, he may make complaint under oath to
3 the clerk of the county court, giving such information and stating
4 such facts therein as may be required, and deliver the same to the
5 clerk of the county court, whose duty it shall be to issue a war-
6 rant ordering the person so suspected and named in such com-
7 plaint to be brought before the commission at a time and place
8 named therein, that his sanity may be inquired into. Any member
9 of the commission without such complaint may have such warrant
10 issued for any person found in his county, whom he shall suspect
11 to be a lunatic. All such warrants shall be signed by the clerk
12 of the county court and have impressed thereon the seal thereof;
13 and may be addressed to the sheriff of the county or to any con-
14 stable of any district thereof, or to a special constable appointed
15 for the purpose and named therein; but if any relative or friend
16 of the person so suspected will serve such warrant and cause such
17 suspected person to be brought before the commission, he may be
18 allowed to do so. All meetings of the commission shall be held
19 at the county seat, unless it shall be thought best by the commission
20 to meet at some other place, as in the case of an insane person
21 whose condition makes it advisable to meet at or near his residence.
22 The officer or person to whom the warrant is addressed shall
23 take the suspected person into his custody and bring him before
24 the commission at the time and place named therein. Before
25 proceeding with the hearing of such suspected person, the com-
26 mission shall appoint a guardian *ad litem* for him, who shall be
27 present at the hearing and manage the case on behalf of the per-
28 son suspected. Such witnesses as shall appear necessary shall be
29 summoned by the commission to testify in the hearing. Among
30 the witnesses there shall be included two reputable physicians, duly
31 authorized to practice medicine in this state, who shall separately
32 make a physical and mental examination of the suspected person,

33 and each physician shall make out a certificate of the result of
34 such examination in the form required by the state board, which
35 certificate shall be sworn to by the physician, and shall be consid-
36 ered as evidence by the commission. The substance of the evidence
37 of each witness shall be reduced to writing. If the commission
38 finds as a result of the hearing that the person suspected is a
39 lunatic and should be confined in a hospital, and that he is not a
40 resident of another county of this state, they shall order him to
41 be committed to the nearest hospital unless some relative or friend
42 of such person will agree to take care of him, in which case the
43 commission may deliver him to such person, and take from such
44 relative or friend a bond in the penalty of at least five hundred
45 dollars, with sufficient security, to be approved by the commission,
46 payable to the state of West Virginia, with condition to restrain
47 and take proper care of such insane person until the cause of con-
48 finement shall cease, or until he is delivered to the commission to
49 be proceeded with according to law; but if the person found to be a
50 lunatic is not dangerous to himself or to the lives or property of
51 others, or is found harmless and incurable, he may be delivered to
52 any relative or friend who will agree to take proper care of him,
53 without such bond, if in the judgment of the commission in any
54 case the same may be proper.

Sec. 6. If the person so found to be a lunatic by the com-
2 mission is a resident of another county of this state, the com-
3 mission shall make up and transmit to the sheriff of its county a
4 copy of the evidence taken on the examination of such person,
5 and shall find and certify to the sheriff the following facts con-
6 cerning such person, namely: His name, color, age and sex, and the
7 county of which he is a resident, giving the name of the city,
8 town or postoffice of such residence, if known. Such certificate
9 and copy of the evidence shall be signed by the chairman and clerk
10 of the commission, attested by the seal of the county. Upon re-
11 ceipt of such certificate and copy of evidence, the sheriff shall
12 thereupon remove such person to the county of which he is a resi-
13 dent and deliver him into the custody of the clerk of the county
14 court; or, in his absence, to the sheriff, and take a receipt in writ-
15 ing for him, which shall show the name of such insane person,
16 the date of delivery, the person who delivered him and the person
17 receiving him. The sheriff shall make due return to the clerk of
18 the county court of his county, showing the manner in which he

19 removed such insane person, making the above mentioned receipt
20 part of such return. Such return shall be entered by the county
21 clerk in the record of the proceedings of the county commission
22 of lunacy. The expenses necessarily incurred in effecting such re-
23 moval, including the compensation to the person making the same,
24 not to exceed three dollars per day, and one guard when necessary,
25 not to exceed one dollar and a half per day, for each day actually
26 so employed, shall be paid out of the county treasury, and shall
27 be refunded to the county paying the same by the county court of
28 the county to which such lunatic was removed and of which he
29 was a resident. The commission of lunacy of the last named
30 county shall proceed in the case of such lunatic as in the case of a
31 person brought before them charged with being a lunatic, and in
32 such case may consider the evidence and certificate delivered to
33 them by the commission of lunacy of the other county.

Sec. 7. When a person has been committed to a hospital,
2 as hereinbefore provided, the clerk of the commission shall im-
3 mediately communicate with the superintendent of the proper hos-
4 pital, and forward to him the commitment papers. In the mean-
5 time the commission may deliver such insane person into the cus-
6 tody of the sheriff for safe keeping until he is taken to the hos-
7 pital, or may provide for his safe keeping for such time by any
8 relative or friend who may agree to do so, upon such terms as
9 may be agreed upon. No such insane person shall be confined in
10 any jail, lockup, or other similar place, unless by reason of his
11 violent or dangerous condition the same shall be necessary; and it
12 shall be the duty of the commission to have all such persons ad-
13 mitted to a hospital where they can receive proper treatment, as
14 speedily as possible. In any case the clerk of the county court may
15 communicate with the superintendent of the hospital by telegraph
16 or telephone. All expenses incurred in the arrest, hearing, and
17 transportation of any insane person to a hospital, including any
18 such telegraphing or telephoning, shall be certified to the county
19 court by the clerk thereof, and shall be paid out of the county
20 treasury.

Sec. 8. The superintendent of the hospital to whom ap-
2 plication is made as hereinbefore provided, shall, on receipt of
3 such application, carefully consider the same, and if he be of
4 the opinion that the person named is a proper one to be admit-
5 ted to his institution, and there is room for him therein, he

6 shall, without delay, cause such person to be brought to his hospital by one of the attendants thereof, the actual expenses whereof shall be paid out of the proper fund of the hospital, and repaid to the state by the county as hereinafter provided. If there be no room in the hospital to which the application is made, the superintendent thereof shall immediately communicate the fact to the state board, which he may do when deemed necessary by telegraph or telephone, and transmit the commitment papers to the state board, whose duty it shall be to ascertain whether there is room in any one of the other hospitals, and if there is, to cause him to be admitted thereto, and the superintendent thereof to send an attendant for such person; *provided*, that any reputable and trustworthy relative or friend of such insane person may be allowed by the county commission of lunacy to deliver him to the hospital, if such relative or friend will do so, without expense to the county or state.

Sec. 9. When a person committed to a state hospital is received therein he shall be carefully examined by the superintendent and the assistant physicians thereof, who are hereby constituted the examining board of such institution. Such examination shall be made as soon after such person is received in the hospital as may be prudent; and, if from such examination (or from a subsequent examination, if the first one be not satisfactory to the examining board) he is found to be insane and a proper person to be received therein, he shall be registered as an inmate of such hospital, and receive maintenance, treatment and care therein; but if he is not a proper person to be received in such hospital, or if in the opinion of the examining board such person be not insane, the superintendent shall cause him to be returned by an attendant to the sheriff of the county from which he was received. On receiving any such person it shall be the duty of the sheriff immediately to notify the clerk of the county court thereof; and it shall be the duty of the commission of lunacy of such county promptly to consider and dispose of such case.

Sec. 10. The county court of any county may make contract with two or more competent physicians respecting the compensation to be paid to them for their services in examining lunatics and other persons brought before the commission of lunacy of the county, the county court, or the circuit court, or confined in jail. The compensation of physicians, of all witnesses, and of all other persons and officers whose compensa-

tion is not fixed in this chapter or by any other law, employed in examination of such persons, or for their care and maintenance, or for other services in connection therewith, unless the same shall have been agreed upon before or at the time such service was performed, or is fixed by law, shall be such as may be prescribed by the county court of the county, and shall be paid out of the county treasury.

Sec. 11. Any resident of this state who is in the early stages of insanity, or believes himself about to become insane, or any epileptic who is not insane, or any other person so afflicted as to believe that treatment in one of said hospitals would be beneficial to him, may make application to the state board for the benefit of treatment in one of the state hospitals, as a voluntary patient. The application must be in writing, in such form as the state board may prescribe, and be signed by the applicant, who shall acknowledge his signature before a justice or a notary public. The state board may require the certificate of one or more physicians and such other evidence of the mental and bodily condition of the applicant as they may think proper; and the board may admit him for treatment in any state hospital upon such terms and conditions, and with such security for payment of the price agreed upon for treatment and maintenance therein, as the board may deem proper. A voluntary patient may be discharged upon certificate of the superintendent of the hospital, because he is cured or because further treatment therein is unnecessary or undesirable. A voluntary patient shall have the right to leave the hospital at any time if in the judgment of the superintendent he is in fit condition, and it is prudent for him to go at large, by giving five days' notice of his desire to do so. Any relative or friend of any such person, or any relative or friend or the guardian or committee of any imbecile, idiot or other incurable mental defective, may make application to the state board for his treatment in a state hospital, and the board may take such action thereon as is provided above in this section, all the provisions of which shall apply to such case, so far as applicable, as when the application is made by the person himself.

Sec. 12. There shall also be admitted to the Huntington state hospital epileptics and idiots, and also such other incurable mental defectives as the state board may deem eligible; but in no case to include tubercular, cancerous or leprous persons. Such persons shall be committed by county courts, or in such

6 other manner as the state board may prescribe, and according to
7 regulations prescribed by said board.

Sec. 13. When any patient in any state hospital is re-
2 stored to sanity the superintendent shall give him a certificate
3 of restoration and discharge him from custody. Any patient
4 out on parole, or on bond, or otherwise temporarily released
5 from a hospital, who has been restored to sanity, may present
6 himself to the superintendent. If after examination the su-
7 perintendent shall find him sane, he shall give him a certifi-
8 cate of restoration and a discharge. Any person who has been
9 found insane by a county commission of lunacy or any other
10 board or tribunal other than a circuit court, and any person who
11 is confined in any hospital or other place of confinement or oth-
12 erwise restrained of his liberty in violation of law, or a patient
13 who has been restored to sanity and to whom the superintend-
14 ent of the hospital refuses to give a certificate of restoration and
15 discharge, may present his petition, or any relative or friend
16 may present a petition in his behalf, to the circuit court of the
17 county in which the hospital is located in case of a patient de-
18 nied the certificate of restoration, and in other cases to the
19 circuit court of the county in which the person is confined or
20 is in custody, stating the facts. The courts shall treat such
21 petition as an application for a writ of *habeas corpus*, so far as
22 applicable and necessary, and cause such process to issue as the
23 court may deem proper, and fix a time for the hearing of the
24 case, which may be heard by the court either with or without
25 a jury, as the court may order; and if the person is found sane,
26 or it is found that he is held in custody in violation of law, he
27 shall be discharged. In cases of patients who have been denied
28 certificates of restoration and discharge by the superintendent
29 of a hospital, or in which it is alleged that a patient is held in
30 custody illegally in any state hospital, the superintendent shall
31 have at least five days' notice of the time and place of the trial
32 in the circuit court. In all such cases the prosecuting attorney
33 shall represent the sheriff or other county officer or the commis-
34 sion of lunacy, who shall be a defendant in such proceedings;
35 and the attorney general shall represent the superintendent of
36 any hospital who is a defendant. In case the decision shall be
37 against the applicant, he or his bondsmen (if any), or the per-
38 son signing the petition, shall pay the costs of the proceeding.
39 In any case in which a court may find a person sane upon an in-

40 quest or trial respecting his sanity, he shall be discharged and
41 entitled to a certified copy of the order of the court made in the
42 case. Nothing in this section shall be construed as applying to
43 patients charged with or convicted of crime, as provided in sec-
44 tion fifteen hereof.

Sec. 14. When any person confined in a state hospital charg-
2 ed with crime and subject to be tried therefor, or convicted of crime
3 and subject to be punished therefor, shall be restored to sanity, the
4 superintendent shall give notice thereof to the clerk of the court
5 by whose order he was confined, and deliver him to the proper offi-
6 cer upon the order of the court.

Sec. 15. If any person charged with or convicted of crime, be
2 found in the court before which he is so charged or was convicted
3 to be insane, and if such court shall order him to be confined in
4 one of the state hospitals, he shall be received and confined in it if
5 there be room therein for him. The sheriff or other officer of the
6 court by which the order is made, shall immediately proceed in
7 the manner directed by section seven of this chapter, to ascertain
8 whether such vacancy exists in a state hospital; and until it is as-
9 certained that there is a vacancy, such person shall be kept in the
10 jail of such court.

Sec. 16. No officer shall be allowed anything for carrying a
2 lunatic or other person to or from a hospital, whether for himself,
3 his guard, or the lunatic, unless he shall have previously ascer-
4 tained that there is room therein for such lunatic.

Sec. 17. If any person confined in a state hospital escape
2 therefrom, the superintendent thereof shall issue a notice, giving
3 the name and description of the person escaping, and requesting
4 his apprehension and return to the hospital; and may offer
5 such reward for the return of such person as the state board
6 may authorize. The superintendent may issue a warrant directed
7 to the sheriff of the county, commanding him to arrest and carry
8 such escaped person back to the hospital, which warrant the sheriff
9 may execute in any part of the state. If such person flee to an-
10 other state, the superintendent shall notify the state board thereof,
11 and the board shall take such action as it may deem proper in the
12 premises for the return of such person to the hospital. The sheriff
13 or other person making such arrest shall be paid such compensa-
14 tion as is provided for like services in other cases, and such addi-
15 tional compensation in any case as the state board may think rea-
16 sonable and just.

Sec. 18. When any person is confined in any jail as an insane person, or an epileptic, or an idiot, or other incurable defective, the jailer shall certify the fact to the circuit court of the county at the next ensuing term, and the court shall thereupon cause such person to be examined, if yet in jail, by two competent physicians, who shall report the result thereof to the court. The court shall then make such provision for the care and maintenance while in jail of such person as it may deem proper; *provided, however,* that the allowance to the jailer for such care and maintenance shall not exceed one dollar per day, except, in special and extraordinary cases, when the court may allow a larger sum. A reasonable allowance may be made for clothing for such person. No such allowance shall be ordered or paid, unless it appear in the certificate that the jailer proved to the court that, immediately after the commitment of such person, and at least once in each ten days thereafter, application was made to a state hospital for admission, and that such application was refused for want of room, or that applications were not continued because the admission of such person had been refused for some other cause than from want of room, and it further appears in such certificate that the jailer made report in due time to the circuit court of the county, as provided in the first part of this section.

Sec. 19. If any reputable person present to the clerk of the county court of a county wherein a person is confined as a lunatic, other than one charged with or convicted of crime, or other than one confined in a state hospital, or a duly licensed private hospital, an application in writing for the discharge of such lunatic on the ground that he has been restored to sanity, the commission of lunacy for the county must consider the same, and may proceed to make an inquest upon such lunatic as is hereinbefore provided. If the commission find that such person has been restored to sanity, they shall set him at liberty if they have authority to do so; and if they have not such authority, they shall give a certificate of their finding to the person making the application, who may present it to the proper court.

Sec. 20. When a person is found insane by the county commission of lunacy, or be committed to a state hospital by the county court, the county court shall appoint a guardian or a committee for him; and when a person is found insane by the circuit court, such court shall appoint a guardian or committee for him.

Sec. 21. The court making the appointment of such guardian or committee shall take from him a bond in such penalty and with such surety as it shall deem sufficient, with condition that the person so appointed will well and truly account for and pay over to the persons entitled thereto all property and moneys which may come into his hands by virtue of such appointment, and with such other conditions as the court may require. When such appointment is made by a circuit court, the clerk thereof shall, without delay, certify to the clerk of the county court the appointment so made, and shall transmit the bond given, and it shall be recorded by the clerk of the county court as other bonds are recorded. The county court shall appoint three disinterested persons to appraise the property, both real and personal, of any such person, which appraisers before entering upon their duties shall take and subscribe an oath that they will fairly and impartially perform their duties as such appraisers; and they shall return a list of all the property owned by such person or to which he may be entitled, by separate items, setting forth the true and actual value of each item of such property and the aggregate value thereof. The report of the appraisers shall be returned to the clerk of the county court, and recorded in his office, as is provided by law for the recordation of the appraisement of the property of deceased persons. If any person so appointed as guardian or committee refuse the trust, or shall fail, at or before the term succeeding his appointment, to give bond as aforesaid, the court, on the motion of any party interested, or at its own instance, may appoint some other person guardian or committee, taking from him bond as above provided, or may commit the estate of such person to the sheriff of the county, who shall act as such guardian or committee, and he and the sureties on his official bond shall be liable for the faithful performance of the trust.

Sec. 22. The guardian or committee of any such person shall be entitled to the custody and control of his person when he resides in the state and is not confined in a state hospital or in jail, and shall take possession of his estate, and may sue and be sued in respect thereto, and for the recovery of debts due to and from such person. He shall preserve such estate and manage it to the best advantage; shall apply the personal estate or so much thereof as may be necessary, to the payment of the debts of such insane person, and the rents and residue of his estate, real and personal, or so much as may be necessary, to the maintenance of such per-

11 son, and of his family, if any; and shall surrender the estate, or as
12 much as he may be accountable for, to such person in case he shall
13 be restored to sanity, or the real estate to his heirs or devisees, and
14 the personal estate to his executors or administrators, in case of
15 of his death without having been restored to sanity.

Sec. 23. If the personal estate of such insane person be in-
2 sufficient for the discharge of his debts, or if such estate or the
3 residue thereof after payment of the debts, and the rents and
4 profits of his real estate, be insufficient for his maintenance
5 and that of his family, if any, the guardian or committee of
6 such person may petition the circuit court of the county in
7 which he was appointed, for authority to mortgage, lease or sell
8 so much of the real estate of such insane person as may be
9 necessary for the purposes aforesaid, or any of them; setting
10 forth in the petition the particulars and the amount of the
11 estate, real and personal, the application which may have been
12 made of any personal estate, and an account of the debts and
13 demands existing against the estate.

Sec. 24. On the presentation of such petition, it shall be re-
2 ferred to a commissioner in chancery, to inquire into and report
3 upon the matters therein contained; whose duty it shall be to
4 make such inquiry, to hear all parties interested in such real es-
5 tate, and report thereon with all convenient speed.

Sec. 25. If, upon the coming in of the report and examina-
2 tion of the matter, it shall appear to the court to be proper, an
3 order shall be entered for the mortgage, leasing or sale (on such
4 terms and conditions as the court may deem proper) of so much of
5 the said real estate as may be necessary. But no conveyance shall
6 be executed until the sale shall have been confirmed by the court.
7 The proceeds of any such sale shall be secured and applied under
8 the order of the court.

Sec. 26. If a person residing in this state, but not so found,
2 be suspected to be insane, the circuit court of the county of which
3 such person is an inhabitant shall upon the application of any per-
4 son interested, and after five days' notice to the person suspected,
5 proceed to examine into his state of mind, and if satisfied that he is
6 insane, shall appoint a committee for him. If a person residing
7 out of this state, but having property therein, be suspected to be in-
8 sane, the circuit court of the county wherein the property or a
9 greater part of it is, shall, upon like application and being satis-
10 fied that he is insane, appoint a committee for him.

Sec. 27. For the purposes of this chapter no person shall be considered a resident of this state unless he is a citizen of the United States and has been a *bona fide* resident of this state for at least one year, and was not insane when he came into this state. And as among the counties, no person shall be considered a resident of a county who is not a resident of the state as above defined, and has been a resident of the county for at least sixty days, and was not insane when he came into the county. In the inquest on a person before them suspected of insanity, the county commission of lunacy, if it appear that he is not a resident of this state, shall make diligent inquiry to ascertain his residence, and if it be ascertained, shall state in the commitment papers as definitely as their information shall justify, the city, town or other place, as well as the state or country, of which he is a resident. When a person who is a non-resident of this state is sequestered as an inmate of a state hospital, the superintendent thereof shall immediately report the fact to the state board. The board shall take proper steps to cause such a person to be deported, if an alien; or, if otherwise a non-resident of this state, to be taken to the state, territory or place of his residence and delivered to the proper authorities thereof.

Sec. 28. No private hospital for the care and treatment of the insane for compensation shall be established unless a permit therefor shall be first obtained from the state board. The application for such permit must be accompanied by the plan of the premises to be occupied, and with such other data and facts as the board may require, who may make such terms and regulations in regard to the conduct of such hospital as it may think proper and necessary. The state board, or any member thereof, or any person by the board authorized to do so, shall have full authority to investigate and inspect such private hospital; and the state board may revoke the permit of any such hospital for good cause, after reasonable notice to the superintendent or other person in charge thereof.

Sec. 29. Any physician who shall sign a certificate respecting the sanity of any person without having made the examination as provided for by this chapter, or shall make any statement in any such certificate maliciously for the purpose of having such person declared insane, and any person who shall maliciously make application to any commission of lunacy or other tribunal for the purpose of having another person declared insane, shall be fined not exceeding five hundred dollars, or imprisoned not exceeding one

8-a year, or both fined and imprisoned at the discretion of
9 the court. Not more than one physician of any firm or association
10 of physicians practicing medicine together, shall sign a certificate
11 provided for in this chapter respecting the mental or bodily condi-
12 tion of any person suspected of insanity.

Sec. 30. If any person shall entice any patient from any of
2 said hospitals who has been legally committed thereto, or attempt
3 to do so; or shall counsel, cause or influence or assist, or attempt
4 to do so, any such patient to escape or attempt to escape therefrom,
5 or harbor or conceal any such patient who has escaped therefrom;
6 or shall without the permission of the superintendent of any such
7 hospital, give or sell to any such patient, whether on the premises
8 thereof or elsewhere, any money, firearms, intoxicating drink,
9 drugs, cigarettes, tobacco, or any other article whatever; or, shall
10 receive from the hands of any such patient any thing of value,
11 whether belonging to state or not; or shall cause or influence, or at-
12 tempt to cause or influence, any such patient to violate any rule
13 or to rebel against the government or discipline of such institution;
14 or shall tease, pester, annoy, or molest any such patient, he shall
15 be guilty of a misdemeanor and, on conviction thereof, shall be
16 fined not less than ten nor more than one hundred dollars, or be
17 imprisoned not exceeding six months, or, in the discretion of the
18 court, be both fined and imprisoned. If any person shall aid or
19 abet the commission of any of the foregoing offenses or aid or
19-a abet an attempt to commit the same, he shall be guilty the same as
20 if he were the principal, and be punished as above provided. In
21 the trial of an indictment for committing any of the above named
22 offenses, the accused may be found guilty of an attempt to commit
23 the same, or of aiding or abetting another in committing or in an
24 attempt to commit the same. If any person, not her husband, shall
25 have sexual intercourse with any female patient who is an inmate
26 of any of said hospitals he shall be guilty of a felony and, on con-
27 viction thereof, shall be confined in the penitentiary not less than
28 ten nor more than fifteen years; and if such female patient be un-
29 der sixteen years of age, he shall be imprisoned not less than ten
30 nor more than twenty years.

Sec. 31. The inclosed premises and the lands adjoining the
2 same belonging to any one of said state hospitals, are hereby
3 declared private grounds; and if any person be found thereon with-
4 out authority or permission or good excuse, he shall be deemed a
5 trespasser and, on conviction thereof, shall be fined not exceeding

6 twenty-five dollars; and if it shall appear that he was thereon for
7 any unlawful or immoral purpose, in addition to being so fined, he
8 shall be imprisoned not exceeding sixty days.

Sec. 32. Immediately after the close of each fiscal
2 year, after the year ending June thirtieth, one thou-
3 sand nine hundred and fifteen, the superintendent of each
4-8 of said hospitals shall make out and certify, in dupli-
9 cate, a list showing the following facts and such others as the state
10 board shall require, namely: The name, color, sex and age of each
11 inmate cared for and maintained in his hospital for any part of
12 the preceding fiscal year; the name of the county of which he was
13 a resident at the time of his admission: the date of his admission,
14 and the length of time during the preceding fiscal year he was an
15 inmate; all payments made by or on behalf of any such inmate, by
16 whom paid, and the date and amount of each of such payments.
17 Said list shall also give the amount paid by the institution or by
18 the state for transportation of each inmate thereto, including trans-
19 portation for any inmate returned thereto who was out on parole.
20 One of said lists the superintendent shall deliver to the state board
21 within ten days after the close of each fiscal year, after the fiscal
22 year ending June thirtieth, one thousand nine hundred and fifteen,
23 and the other he shall file among the records of his institution. The
24 time in any fiscal year that an inmate was out on bond or parole,
25 or was maintained otherwise than at the cost of the state, shall
26 not be computed in said report.

Sec. 33. From the lists received from the superintendents
2 the state board shall, without delay, make up and certify a state-
3 ment, in triplicate, for each county named in any such list, show-
4 ing the following facts and any others the board may think neces-
5 sary: The name, color, sex and age of each inmate from the coun-
6 ty, except those who have paid or others have paid for them the
7 entire cost of their care and maintenance and all transportation ex-
8 penses, the name of the hospital of which an inmate, when admit-
9 ted therein, and the length of time he was in such institution dur-
10 ing the preceding fiscal year, and the amount due for his care and
11 maintenance and transportation expenses separately, and the whole
12 amount due from the county on account of all the inmates named
13 in such list. In such list there shall be stated all payments made
14 by or on behalf of any inmate named therein, giving the date,
15 amount, by whom paid, and the name of the inmate on whose be-
16 half each payment was made, and the board shall deduct the

17 amount of all such payments from the whole amount due, and the
18 balance or net amount thereby shown shall be a debt due from the
19 county to the state, and shall be paid into the state treasury and
20 collected as hereinafter provided. One of such statements for each
21 county shall be transmitted to the clerk of the county court of the
22 county, one shall be filed with the auditor, and the other the board
23 shall file in its office. The clerk of the county court shall lay such
24 statement before the county court at its next session, and there-
25 after file and safely keep the same in his office. If the county court
26 shall find any errors therein it shall report the same to the state
27 board, and the board shall consider the same, and certify to the
28 auditor any such error, and the auditor shall credit the account of
29 the county with the amount thereof, and report the same to the
30 sheriff of the county.

Sec. 34. The amount shown to be due from any county by
2 any such statement certified by the state board shall be a debt due
3 from the county to the state. And it shall be the duty of the coun-
4 ty court of the county to cause the same to be paid
5 into the state treasury, and include the amount in the next
6 levy for county purposes. On receipt of any such state-
7 ment the auditor shall charge the amount against the
7-a county shown thereby to be due from the county to the state,
8 and notify the sheriff of the county thereof. The auditor shall ap-
9 propriate to the payment of such amount any moneys in the state
10 treasury, or that may thereafter come therein, to the credit of the
11 county; and if there be none such, or they be insufficient, the au-
12 ditor shall collect the same in any manner provided by law. On
13 or before the tenth day of each month the auditor shall report to
14 the state board all payments made into the state treasury in the
15 preceding month by each county on account of any such
16 statement against it, stating the name of the institution for which
17 paid in; and if any payment made be less than the entire amount
18 due, the auditor shall state for which institution the payment was
19 made, and the amount paid in on the account of each institution.
20 All amounts paid by counties shall be known as "state board of con-
21 trol funds," and shall be credited by the auditor to the institution
22 on whose account the same was paid; and the amounts so paid shall
23 be subject to the requisition of the state board of control, from time
24 to time, for the benefit of the institution on whose account the same
25 was paid; and all such moneys and funds are hereby appropriated
26 for the purpose.

Sec. 35. All moneys which any county shall pay or become
2 liable for under the provisions of this chapter the county court
3 of the county may recover, within five years after payment of
4 the same by the county or from the time the county became lia-
5 ble therefor, from the persons and in the manner following,
6 namely: if the inmate be a minor, from his guardian; or, if
7 he have no estate, or it be insufficient, from his father; or, if he
8 have no father or his estate be insufficient, from his mother. If
9 the inmate be an adult, from his or her estate; but if such es-
10 tate be insufficient, and the inmate be a wife, from the estate
11 of her husband; or, if his estate be insufficient, from the estate
12 of her children, or such of them as have sufficient estate. If the
13 inmate be a husband, and his estate be insufficient, from the es-
14-15 tate of his wife; or, if her estate be insufficient, from the estate
16 of his children, or such of them as have sufficient estate.

17 It shall be the duty of the guardian or committee of any
18 such inmate to pay to the county of which his ward is a resident,
19 if he have sufficient estate in his hands to do so, the money so
20 due to the county from his ward. The county court may order
21 its clerk to make out a bill against any such inmate for the sum
22 so due to the county, which bill shall show the different items and
23 the amount of each, and be certified by the clerk as correct, and
24 by him delivered to the sheriff for collection. The clerk shall
25 charge against the sheriff the amount of each of such bills, show-
26 ing the date when delivered to the sheriff. It shall be the duty
27 of the sheriff to collect the same from the proper person, or the
28 guardian, or committee of such inmate. Within sixty days after
29 receiving any such bill, or at the next session of the county court
30 held after the expiration of such sixty days, the sheriff shall make
31 a report to the county court of his acts in respect thereto and
32 return all such bills he has been unable to collect. The county
33 court may re-deliver any of such bills to the sheriff for collection,
34 and in respect thereto the sheriff shall make report as above pro-
35 vided. In the recovery of moneys due the county under the pro-
36 visions of this chapter, in addition to the provisions of this chap-
37 ter all the provisions of sections fifteen, sixteen, seventeen and
38 eighteen of chapter forty-six of said code shall apply as far as
39 they may be applicable; and the county court may proceed ac-
40 cording to said provisions without first placing the claim in the
41 hands of the sheriff for collection: *provided*, that as to any per-
42 son liable to the county for any money under the provisions of
43 this chapter, the county court may, if it find he is unable to pay

44 the same, or that the payment of the same would work a hard-
45 ship upon him or his family or others dependent upon him, ex-
46 onerate him from the payment of the same or from a part there-
47 of, or make any other order in the matter that the county court
48 shall deem just and equitable or expedient under all the circum-
49 stances of the case.

Senate Bill No. 213

AN ACT providing for the payment of deposits in banks by minors to such minors.

Be it enacted by the Legislature of West Virginia:

Section 1. Whenever any minor shall make or have credit for
2 a deposit in any bank or trust company in his or her name, such
3 bank or trust company may pay such money on the check or order
4 of such depositor the same as in cases of depositors of legal age,
5 and such payment shall be in all respects valid, except when such
6 bank or trust company has been specifically directed to do other-
7 wise, in writing, by the parent or guardian of such minor.

Senate Bill No. 351

AN ACT providing for the submission of an amendment to the constitution of the state of West Virginia, section twenty-three of article eight.

Be it enacted by the Legislature of West Virginia:

That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred and sixteen, which proposed amendment is as follows:

Section twenty-three of article eight to be amended, so as to read as follows:

Section 23. (1) The commissioners shall be elected by the voters

2 of the county, and hold their office for the term of six years, ex-
3 cept at the first meeting of said commissioners they shall desig-
4 nate by lot, or otherwise, in such manner as they may determine,
5 one of their number who shall hold his office for a term of two
6 years, one for four years and one for six years, so that one shall
7 be elected every two years. But no two of said commissioners shall
7-a be elected from the same magisterial district. But if two or
8 more persons residing in the same district shall receive the great-
9 er number of votes cast at any election, then only the one of
10 such persons receiving the highest number of votes shall be de-
11 clared elected, and the person living in another district who shall
12 receive the next highest number of votes shall be declared elected.
13 Said commissioners shall annually elect one of their number as
14 president, and each shall receive four dollars per day for his ser-
15 vices in court, to be paid out of the county treasury; *provided*,
16 *however*, that said payment of four dollars per day shall not ex-
17 ceed the sum of four hundred dollars per year for each commis-
18 sioner; and *provided, further*, that such compensation may be
19 increased in any county by the assent of a majority of the votes
20 cast on the question at any general or special election.

21 (2) For convenience in referring to the said proposed
22 amendment, and in the preparation of the form of the ballot
23 hereinafter provided for, said proposed amendment is hereby des-
24 ignated as follows:

25 To be known as "County Court Amendment."

26 (3) For the purpose of enabling the voters of the state to
27 vote on the question of said proposed amendment to the constitu-
28 tion at the said general election to be held in the year one thou-
29 sand nine hundred and sixteen, the board of ballot commission-
30 ers of each county are hereby directed to provide and have print-
31 ed a separate ballot of convenient size, distinctly printed and in
32 form substantially as follows:

33 *Ballot on Constitutional Amendment.*

34 *County Court Amendment.*

35 Amending section twenty-three of article eight.

36 [] For Ratification.

37 [] For Rejection.

38 The same number of said separate ballots shall be printed,
39 and shall be supplied to the several voting places in each county,
40 and to be paid for in the same manner as is provided for the reg-
41 ular ballots to be used at said general election.

42 The commissioners of election at the several voting places
43 in each county, shall furnish to each voter one of said separate
44 ballots to be used by him for voting on the question of said pro-
45 posed amendment; but any voter shall also have the right to vote
46 on the question of said proposed amendment by any other ballot
47 printed or written, which he may see fit to use, and which suffi-
48 ciently discloses his intention, and no ballot cast at said election on
49 the question of the proposed amendment shall be rejected if it
50 sufficiently appears therefrom what the voter intended; and every
51 voter shall have the right to vote on said proposed amendment as
52 he shall see fit.

53 The said election on the said proposed amendment at each
54 place of voting shall be superintended, conducted and returned,
55 and the result thereof ascertained by the same officers and in the
56 same manner as the election of any person to any office, and all
57 provisions of the law relating to general elections shall apply.

Sec. 4. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be laid
3 before the governor, whose duty it shall be to ascertain there-
4 from the result of said election in the state, and declare the same
5 by proclamation published in some one or more newspaper print-
6 ed at the seat of government. If a majority of the votes cast at
7 the said election upon said question be for ratification of said
8 amendment, the proposed amendment so ratified shall be of force
9 and effect from the time of such ratification, and be part of the
10 constitution of the state.

Senate Bill No. 84

AN ACT to amend and re-enact section one of chapter thirteen of the
code of West Virginia, concerning the distribution of the session
acts.

Be it enacted by the Legislature of West Virginia:

That section one of chapter thirteen of the code of West
Virginia be amended and re-enacted so as to read as follows:

Section 1. Free distribution of the acts and joint resolutions
2 of each session of the legislature, and other matter directed by law
3 to be published therewith, shall be made as follows by the secretary

4 of state; one copy to every judge and clerk of each court in this
5 state, and one copy to the judge, one copy to the clerk and one to
6 the marshal of every United States district court of this state;
7 one copy to every prosecuting attorney, sheriff, assessor, county
8 superintendent of free schools, surveyor of lands, commissioner of
9 the county court, and justice of the peace; five copies to the
10 governor, three copies to the attorney general, two copies to the
11 state superintendent of free schools, two copies to the secretary
12 of state, two copies to the auditor, one copy to the treasurer, one
13 copy to the adjutant general, four copies to the public service
14 commission, three copies to the state board of control, one copy to
15 the department of mines, one copy to the commissioner of labor
16 and one copy to the commissioner of agriculture; five copies to the
17 clerk of the senate, one for his own use, and the others to be kept
18 in his office for the use of the senate, and ten copies to the clerk of
19 the house of delegates, one for his own use, and the others to be
20 kept in his office for the use of the house; ten copies to each mem-
21 ber of the legislature, one for his own use, and the others for dis-
22 tribution; ten copies to the college of law of the West Virginia uni-
23 versity; one copy to each public institution of the state; three
24 copies to the librarian of congress, one for the library and one for
25 each house of congress; one copy to each senator and representative
26 in congress from this state; three copies to the secretary of state of
27 the United States, one for his own office, one for the president and
28 one for the attorney general of the United States; one copy to the
29 governor of each state and territory and possession of the United
30 States.

31 The secretary of state shall arrange as far as possible with each
32 of the other states for the exchange of two copies therewith, one of
33 which copies received from each state shall be deposited in the
34 state law library at Charleston, one copy in the library of the col-
35 lege of law of West Virginia university, and the other copies, if
36 any, so received from any other state, to be disposed of as the
37 governor shall direct. The said exchange with other states may be
38 made direct by the secretary of state or through the state librarian,
39 whichever may be deemed best and ordered by the governor.
40 All of said copies named in this section shall be sent by mail, ex-
41 press or otherwise, as the secretary of state may deem best. The
42 acts to which the officers of a county may be entitled shall be for-
43 warded to the clerk of the county court thereof, and shall be given
44 by him to the officers entitled to receive the same. Upon receipt

45 of the said acts by him, the clerk of the county court shall for-
46 ward his receipt therefor to the secretary of state, specifying the
47 number received; and he shall require each person receiving a copy
48 of said acts from him to sign a receipt therefor in a book to be
49 kept by him for that purpose. The remaining copies of the acts
50 received by the secretary of state shall be sold by him at a price
51 fixed by him and the governor, which shall cover the cost thereof
52 to the state, and the proceeds of all such sales shall be paid
53 monthly by the secretary of state into the state treasury; *provided,*
54 that the governor may in writing cause additional copies of said
55 acts to be furnished to any officer, court, institution and board
56 now entitled to one or more copies, and he may also cause one or
57 more copies of said acts to be furnished to any officer, board, com-
58 mission, institution or tribunal not named herein.

Senate Bill No. 291

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state of West Vir-
ginia, amending section one of article four.

Be it enacted by the Legislature of West Virginia:

That the question of the ratification or rejection of an amend-
ment to the constitution of West Virginia, proposed in accordance
with the provisions of section two of article fourteen of said con-
stitution, shall be submitted to the voters of the state at the next gen-
eral election, to be held in the year one thousand nine hundred and
sixteen, which proposed amendment is as follows:

8 That section one of article four of said constitution as it now
9 is, be altered and amended so as to read as follows:

Section 1. The citizens of the state, both male and female,
2 shall be entitled to vote at all elections held within the counties
3 in which they respectively reside; but no person who is a minor,
4 or of unsound mind, or a pauper, or who is under conviction of
5 treason, felony, or bribery in an election, or who has not been
6 a resident of the state for one year, and of the county in which
7 he or she offers to vote, for sixty days next preceding such offer,
8 shall be permitted to vote while such disability continues; but no
9 person in the military, naval or marine service of the United States

10 shall be deemed a resident of this state by reason of being stationed
11 therein.

Sec. 2. For convenience in referring to the said proposed
2 amendment and in the preparation of the form of the ballot here-
3 inafter provided for, said proposed amendment is hereby designated
4 as follows:

5 To be known as "Female Suffrage Amendment."

Sec. 3. For the purpose of enabling the voters of the state to
2 vote on the question of said proposed amendment to the constitu-
3 tion, at the said general election to be held in the year one thou-
4 sand nine hundred and sixteen, the board of ballot commissioners
5 of each county are hereby required to place upon and at the foot
6 of the official ballots to be voted at said election the following:

7 Amending section one of article four.

8 [] "For ratification of female suffrage amendment."

9 [] "Against ratification of female suffrage amendment."

10 The said election on the proposed amendment at each place
11 of voting shall be superintended, conducted and returned, and
12 the result thereof ascertained, by the same officers and in the
13 same manner as the election of officers to be voted for at said
14 election; and all of the provisions of the law relating to general
15 elections, including all duties to be performed by any officer or
16 board, as far as applicable and not inconsistent with anything
17 herein contained, shall apply to the election held under the pro-
18 visions of this act, except when it is herein otherwise provided.
19 The ballots cast on the question of said proposed amendment, shall
20 be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained, the commis-
2 sioners, or a majority of them, and the canvassers (if there be
3 any) or a majority of them at each place of voting, shall make
4 out and sign two certificates thereof, in the following form, or
5 to the following effect:

6 "We, the undersigned, who acted as commissioners (or can-
7 vassers, as the case may be), of the election held at....., in
8 the district of....., in the county of....., on
9 the day of....., one thousand nine hundred and
10 sixteen, upon the question of the ratification or rejection of the
11 proposed constitutional amendment, to section one of article four,
12 do hereby certify that the result of said election is as follows:

13 "Amending section one of article four.

14 "For ratification of female suffrage amendment.....votes.

15 "Against ratification of female suffrage amendment.....

16 votes.

17 "Given under our hands this day of, one
18 thousand nine hundred and sixteen."

19 The said two certificates shall correspond with each other
20 in all respects, and contain the full and true returns of said elec-
21 tion at each place of voting on said questions. The said com-
22 missioners, or any one of them, (or said canvassers or one of
23 them, as the case may be), shall within four days, excluding
24 Sundays, after that on which said election was held, deliver one
25 of said certificates to the clerk of the county court of his county,
26 together with the ballots, and the other to the clerk of the cir-
27 cuit court of the county.

28 The said certificates together with the ballots cast on the
29 question of said proposed amendment, shall be laid before the com-
30 missioners of the county court at the court house at the same
31 time the ballots, poll books and the certificates of the election for
32 the members of the legislature are laid before them; and as soon
33 as the result of said election in the county upon the question of
34 such ratification or rejection is ascertained, two certificates of
35 such result shall be made out and signed by said commissioners,
36 as a board of canvassers, in the form or to the following effect:

37 "We, the board of canvassers of the county of
38 having carefully and impartially examined the returns of the elec-
39 tion held in said county, in each district thereof, on the
40 day of November, one thousand nine hundred and sixteen, do
41 certify that the result of the election in said county, on the ques-
42 tion of the ratification or rejection of the proposed amendment to
43 section one of article four is as follows:

44 "For ratification of female suffrage amendment.....votes.

45 "Against ratification of female suffrage amendment.....

46 votes.

47 "Given under our hands this.....day ofone
48 thousand nine hundred and sixteen."

49 One of the certificates shall be filed in the office of the
50 clerk of the county court, and the other forwarded by mail to the
51 secretary of state, who shall file and preserve the same until
52 the day on which the result of said election in the state is to
53 be ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held,

2 or as soon thereafter as practicable, the said certificates shall be
3 laid before the governor, whose duty it shall be to ascertain there-
4 from the result of said election in the state, and declare the same
5 by proclamation, published in one or more newspapers printed at
6 the seat of government. If a majority of the votes cast at said
7 election upon said question be for the female suffrage amendment,
8 the proposed amendment so ratified, is and shall be in force and
9 effect from and after the ratification of the same by the voters of
10 the state, as a part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-
2 ment with the proper designation for the same as hereinbefore
3 adopted, to be published at least three months before such election,
4 in some newspaper in every county in which a newspaper is print-
5 ed, at a price to be agreed upon, in advance, in writing, and the
6 cost of such advertising shall in the first instance, if found neces-
7 sary by him, be paid out of the governor's contingent fund, and
8 be afterwards repaid to such fund by appropriation of the legis-
9 lature.

Senate Bill No. 28

[BY MR. ROSENBLOOM.]

Introduced January 18, 1915. Referred to the Committee on the
Judiciary. January 27, reported back with the recommendation that
it do pass; January 29, taken up in regular order, read a first time
and ordered to a second reading.

A BILL defining boiled or process butter; designating the name by
which it shall be known; providing for the licensing of manu-
facturers and dealers therein, and regulating the sale and label-
ling of the same so as to prevent fraud and deception in its
sale; providing punishment for violations of this act, the methods
of procedure for its enforcement, and certain matters of evidence
in such procedure.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That for the purpose of this act certain food pro-
2 duct, usually known as "boiled" or "process" butter, produced by
3 taking original packing stock and other butter and melting the
4 same so that the butter oil can be drawn off, mixed with milk or
5 skimmed milk or other material, and by emulsion or other process

6 produce butter, and butter produced by any similar process, and
7 commonly known as "boiled" or "process" butter and which "boil-
8 ed" or "process" butter for the purpose of this act shall be known
9 and designated as "renovated butter."

Sec. 2. Every person, firm or corporation, and every agent
2 of such person, firm or corporation, who shall desire to engage

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3 in the business of manufacturing or selling "renovated butter"
4 shall first make application to the commissioner of agriculture
5 for a license, authorizing him, her or them to engage in the manu-
6 facture or sale of "renovated butter," and such application for
7 license shall be in such form as shall be prescribed by the depart-
8 ment of agriculture through its agent, the commissioner of agricul-
9 ture; which application, in addition to other matters which may be
10 required to be stated therein by the said commissioner of agricul-
11 ture, shall contain an accurate description of the place where the
12 proposed business is intended to be carried on, and the name and
13 style under which it is proposed to conduct the said business, which
14 name and style shall not, in the judgment of the commissioner of
15 agriculture, be calculated to deceive or mislead the public as to the
16 real nature of the business so proposed to be carried on; and if the
17 said application is satisfactory to the said commissioner of agri-
18 culture, he shall issue to the applicant or applicants a license, au-
19 thorizing him, her or them, to engage in the manufacture or sale
20 of "renovated butter;" for which said license the applicant or ap-
21 plicants shall first pay, annually, the following sum: If a manu-
22 facturer, the annual sum of five hundred dollars; if a wholesale
23 dealer, the annual sum of two hundred dollars; if a retailer, the
24 annual sum of one hundred dollars; and the said license fees, when
25 received by the said commissioner of agriculture, or his agent, shall
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26 be by him immediately paid into the state treasury. All licenses
27 under this act shall expire the thirty-first day of December of each
28 year, but licenses may be granted to begin on the first of any month,
29 for the remainder of a year, upon the payment of a proportionate
30 part of the annual license fee. Wholesale dealers, within the
31 meaning of this act, shall be all persons, firms or corporations
32 who shall sell to dealers, and persons who shall buy to sell again,
33 and all persons, firms and corporations who make sales in quanti-
34 ties of ten pounds and over at any time. An agent of a manu-
35 facturer located outside of the state, and taking orders within this

36 state for such "renovated butter" to be delivered from the factory
37 or from a storage-house, or from one place of business to another
38 within this state, shall be, within the meaning of this act, a whole-
39 sale dealer. And retail dealers shall be all persons, firms or cor-
40 porations who sell in quantities of less than ten pounds. Such
41 license may be transferred by the commissioner of agriculture,
42 upon the application in writing of the person, firm or corporation
43 to which the same has been granted; *provided*, the transferee shall
44 comply with the provisions of this act and with the regulations
45 made by the said commissioner of agriculture in regard to said
46 transfer. Such license shall not authorize the manufacture or
47 sale, exposing for sale or having in possession with intent to sell,
48 "renovated butter" at any place other than that designated in the

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49 application and license. The license, procured as aforesaid, shall
50 be hung up in a conspicuous place, in the place of business, room
51 or store where such "renovated butter" is authorized to be sold.

Sec. 3. That no person, firm or corporation shall sell or of-
2 fer or expose for sale, or have in his, her or their possession with
3 intent to sell, any "renovated butter" from a wagon or other ve-
4 hicle, or upon the public streets or roads, or from house to house.

Sec. 4. Every person, firm or corporation who shall obtain
2 a license for the manufacture or sale of "renovated butter" shall
3 also be required, before engaging in such manufacturing or sale,
4 to procure from the commissioner of agriculture, a signs or signs,
5 of such form, size and lettering as the dairy and food commis-
6 sioner shall determine, and which shall be uniform throughout
7 the state; which said sign or signs shall clearly set forth that he,
8 she or they are engaged in the manufacture or sale of "renovated
9 butter," and which sign or signs when procured shall be hung up
10 in a conspicuous place or places, on the wall of each room or store
11 or place of business in which "renovated butter" is manufactured
12 or sold. Every person, firm or corporation who shall obtain a
13 license as a manufacturer or wholesale dealer, for the manufac-
14 ture or sale of renovated butter, shall also be required, before en-
15 gaging in such manufacture or sale, to procure from the commis-
16 sioner of agriculture, a stencil of such form, size and lettering as
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17 the dairy and food commissioner shall determine, and which shall
18 be uniform throughout the state; which said stencil shall designate
19 the number of the said license, and the name and address of the

20 holder thereof; which said stencil shall be used by the manufacturer
21 or wholesale dealer, and said stencil brand shall be placed on each
22 and every package before sold by the manufacturer of wholesale
23 dealer to the retailer. If any package of renovated butter shall
24 be found in the possession of any manufacturer of wholesale deal-
25 er, or retail dealer, without the said stencil brand being found
26 thereon, such package shall be seized by the commissioner of
27 agriculture, or by any of his agents, and said package shall be
28 forfeited, and shall be sold by the commissioner of agriculture,
29 or his agents, and the proceeds thereof paid to the state treasurer,
30 for the use of the Department of agriculture.

Sec. 5. It shall be unlawful for any person, firm or corpora-
2 tion, or any agent thereof, to sell, or offer or expose for sale, or
2 have in his, or her possession with intent to sell, any "reno-
4 vated butter" not marked and distinguished on the outside of
5 each tub, package or parcel thereof, in a conspicuous place, by
6 a placard with the words "renovated butter"; and such placard
7 shall be printed in plain, uncondensed gothic letters, not less than
8 one-half inch long, and such placard shall not contain any other
9 words, printing or device thereon, and also, upon every open tub,
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10 package or parcel, containing such "renovated butter," there shall
11 be displayed in the same manner, in a conspicuous place, a placard
12 with the words "renovated butter" printed thereon, in the same
13 form as above described in this section; and when "renovated
14 butter" is sold from such package, and otherwise, at retail, in
15 print, roll or other form, before being delivered to the purchaser
16 it shall be wrapped in wrappers, plainly stamped on the outside
17 thereof with the words "renovated butter," printed or stamped
18 thereon in letters one-quarter of an inch square, and such wrap-
19 per shall contain no other words or printing thereon; and the
20 said words "renovated butter" so stamped or printed on the said
21 wrapper, shall not be in any manner concealed, but shall be in
22 plain view of the purchaser at time of purchase.

Sec. 6. Every person, firm or corporation who shall have ob-
2 tained a license, and be engaged in the business of manufacturer
3 wholesale dealer in "renovated butter," shall keep a book, in
4 which shall be entered accurately every sale and shipment, the
5 quantity and person to whom sold and shipped, the place to
6 which shipped, and the name of the transportation line by which
7 shipped; which said book shall be always open to the inspection

8 of the commissioner of agriculture, or his agents, attorneys and
9 representatives. Every retail dealer in "renovated butter" shall
10 keep an accurate account, in a book open to the examination of
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11 the commissioner of agriculture, or his agents, attorneys and
12 representatives, in which said book shall be entered the date of
13 the receipt for all purchases of "renovated butter" made by such
14 retail dealer, stating therein where and from whom purchased,
15 and the quantity so purchased.

Sec. 7. Every person, firm or corporation, and every agent
2 of such person, firm or corporation, who shall manufacture, sell
3 or offer, or expose for sale, or have in his, her or their posses-
4 sion with intent to sell, "renovate butter," in violation of any
5 of the provisions of this act, or who shall in any other respects
6 violate any of the provisions of this act, shall for every offense
7 forfeit and pay the sum of one hundred dollars, which
8 shall be recoverable with the costs, including the expense of the
9 inspection and analysis, by any person suing in the name of
10 the state, as debts of like amount are by law recoverable; and
11 justices of the peace, throughout this state, shall have jurisdic-
12 tion to hear and determine all actions for recovery of penalties
13 for violations of the provisions of this act, with the right of ap-
14 peal in either party to the circuit court, as provided in existing
15 laws in suits for penalties; and all penalties and costs, imposed
16 and recovered under the provisions of this act, shall be paid to
17 the commissioner of agriculture, or his agents, and by him im-

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18 mediately turned into the state treasury, to be paid out and used
19 as hereinafter provided.

Sec. 8. In addition to the above penalty, every person, firm
2 or corporation, and every agent of such person, firm or corpo-
3 ration, who violates any of the provisions of this act shall be
4 deemed guilty of a misdemeanor, and upon conviction, shall be
5 punished for the first offense by a fine of not less than one hun-
6 dred dollars, nor more than three hundred dollars, or by im-
7 prisonment in the county jail for not more than thirty days, or
8 both, at the discretion of the court; and for the second offense, by
9 a fine of not less than three hundred dollars, and not exceeding
10 five hundred dollars, and imprisonment not exceeding one year.

Sec. 9. In any proceedings under this act, either for the
2 collection of a penalty or prosecution for misdemeanor, the cer-

3 tificate of the commissioner of agriculture and the secretary
4 of agriculture, under the seal of th department of agriculture,
5 shall be accepted by justices of the peace, and courts of record
6 as evidence of the granting of a license to manufacture or sell
7 "renovated butter," or of the fact that no such license has been
8 granted to any particular person, firm or corporation.

Sec. 10. Whenever a suit for the collection of a penalty,
2 under the provisions of this act, shall be appealed by any circuit
3 court; or whenever any prosecution for a misdemeanor, or ac-
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4 count of any violation of th provisions of this act, has been
5 returned to any circuit court, it shall be lawful for the com-
6 missioner of agriculture, his agents or attorneys, in case the
7 persons or persons who have been sued for such penalty or prose-
8 cuted for such misdemeanor have, since the commencement of
9 such suit or prosecution, again violated any of the provisions of
10 this act, to apply to the court having jurisdiction of such appeal
11 or of such prosecution, or to any law judge thereof, by petition
12 setting forth the facts, and asking the said court to make an
13 order commanding and restraining the person or persons, so
14 sued or prosecuted as aforesaid, from further violation any of
15 the provisions of this act, until such time as the said suit for
16 penalty or the said prosecution shall have been finally decided
17 and determined; and thereupon the said court, or any law judge
18 thereof, after such notice to such person or persons so sued
19 or prosecuted as aforesaid, as to the said court or judge may
20 appear proper, and after inquiring into the facts alleged in said
21 petition, shall, if satisfied that any violation of the provisions
22 of this act has been committed by such person or persons since
23 the commencement of said suit or prosecution, make an order
24 commanding and restraining the said person or persons from
25 any further violation of the provisions of this act, until such
26 time as the said suit or prosecution shall have been finally de-

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27 cided and determined; and in case, upon the final determination
28 of said suit or prosecution, it shall appear that the said person
29 or persons had incurred the liability to payment of the penalty
30 for which said suit had been so brought, or has been duly
31 convicted of a misdemeanor in the prosecution so commenced
32 as aforesaid, the said court or law judge thereof shall make the
33 aforesaid order, restraining the said person or persons from the

34 further violation of the provisions of this act, continuing and
35 permanent; any any violation by any person or persons of any
36 restraining order of such court or judge, whether the restraining
37 order shall be made during the pendency of a suit for penalty,
38 or of a prosecution as above stated, or after the final determina-
39 tion of such suit or prosecution in the manner aforesaid, shall
40 be punishable as a contempt of the court so making the said
41 order. And the said court is hereby authorized to take such
42 steps for the punishment of such contempt as may by law be
43 now taken for disregarding any injunction or other order of
44 the circuit courts of this state sitting in equity and exercising
45 equity jurisdiction. No security shall be required on the part of
46 the petitioner for such restraining order, and the costs of the
47 application and subsequent proceedings thereon shall be in the
49 discretion of the court.

Sec 11. The commissioner of agriculture shall be charged
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2 with the enforcement of all the provisions of this act; but any
3 citizen of the state, having knowledge or information of the vio-
4 lation of any of the provisions of this act, may, in the name of
5 the state, begin a suit for penalty or prosecution for misdemeanor,
6 in accordance with the provisions of this act, and may prosecute
7 to final judgment any suit or prosecution; giving notice in writ-
8 ing, however, to the commissioner of agriculture of the com-
9 mencement of such suit or prosecution immediately upon the com-
10 mencement of the same, stating the nature of the proceeding, and
11 the magistrate before whom commenced, and shall in like manner
12 report to the commissioner of agriculture, each successive step
13 taken in such suit or prosecution; and such citizen shall, upon
14 complying with the provisions of this section, be entitled to re-
15 ceive one-half of any penalty or fine which may be recovered in
16 such proceeding and paid to the commissioner of agriculture; and
17 immediately upon the receipt and covering into the treasury of
18 any such penalty or fine, recovered and paid in any proceeding
19 commenced by a citizen, as aforesaid, the commissioner of agri-
20 culture shall pay the one-half thereof to the said citizen, so com-
21 mencing said proceeding any complying with the provisions of
22 any such penalty or fine, recovered and paid in any proceeding
23 commenced by a citizen, as aforesaid, the commissioner of agricul-
24 ture shall pay the one-half thereof to the said citizen, so com-

25 mencing said proceeding and complying with the provisions of
26 this section. Such citizen shall also be entitled to recover from the
27 defendant his witness fees and other legal costs, as fixed by law, in
28 said proceedings.

Sec. 12. The money paid into the treasury under the pro-
2 visions of this act shall constitute a special fund for the use of
3 the department of agriculture in enforcing this law, and may
4 be drawn out upon warrants signed by the commissioner of
5 agriculture and approved by the state auditor; subject, how-
6 ever, to the payment to any citizen commencing and successfully
7 prosecuting a proceeding for any violation of this act, under the
8 last preceding section of one-half of the penalty or fine so re-
9 covered in such proceeding and paid into the state treasury.

Sec. 13. The commissioner of agriculture, his assistants,
2 agents, experts, chemists, detectives and counsel, duly appointed
3 by him for the purpose, shall have full access, egress and ingress
4 to all places of business, factories and farm buildings, carriages,
5 cars, vessels and cans used in the manufacture, transportation and
6 sale of any dairy products, or of any adulteration or imitation
7 thereof; and shall also have power and authority to open any
8 package, can or vessel containing, or which may be supposed
9 to contain, renovated butter which may be manufactured, sold
10 or exposed for sale in violation of any of the provisions of this
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11 act; and they shall also have power to take from such package,
12 can or vessel samples for analysis, upon paying or tendering the
13 value of such samples.

Sec. 14. The commissioner of agriculture shall publish a
2 semi-annual bulletin, and distribute the same in the same man-
3 ner as other bulletins of the department of agriculture are pub-
4 lished and distributed; which semi-annual bulletin shall contain
5 the name and address of every person, firm or corporation to
6 whom a license has been issued for the manufacture or sale of
7 renovated butter, and also a tabulated statement of all the ac-
8 tions, civil or criminal, which have been brought for the viola-
9 tions of this act; giving the name and address of the defendant,
10 and the disposition of every case.

Sec. 15. When a state license shall have been granted for
2 any specific place and said license shall become void for any
3 reason, a second license shall not be granted for the same loca-
4 tion, under any other name, within the fiscal year.

Sec. 16. All acts inconsistent with this act are hereby repealed.

PRINTED BY ORDER OF THE COMMITTEE ON IMMIGRATION AND AGRICULTURE.

Senate Bill No. 225

[BY MR. HAWLEY.]

Introduced January 28, 1915. Referred to the Committee on Immigration and Agriculture. February 2, reported back with the recommendation that it do pass.

A BILL providing for the gathering of samples, the analysis, testing and marking of commercial feeding stuffs, and providing an inspection tax therefor, and penalties for its violation.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The term "Commercial Feeding Stuffs" shall be held
2 to include all feeding stuffs used for feeding live stock and poultry,
3 except whole seeds or grains, the unmixed meals made directly
4 from the entire grain of corn, wheat, rye, barley, oats, buckwheat,
5 flaxseed, kafir and mile, whole hays, straws, cotton seed hulls and
6 corn stover when unmixed with other materials, together with all
7 other materials containing sixty per cent of water.

Sec. 2. Every lot or parcel of commercial feeding stuffs sold,
2 offered or exposed for sale or distributed within this state, shall
3 have affixed thereto a tag or label, in conspicuous place on the out-

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4 side thereof, containing a legible and plainly printed statement
5 in the English language, clearly and truly certifying:

6 (a). The net weight of the contents of the package, lot or
7 parcel;

8 (b). The name, brand or trade mark;

9 (c) The name and principal address of the manufacturer or
10 person responsible for placing the commodity on the market;

11 (d). The minimum per centum of crude protein;

12 (e). The minimum per centum of crude fat;

13 (f). The maximum per centum of crude fiber;

14 (g). The specific name of each ingredient used in its manu-
15 facture. The crude protein, crude fat and crude fiber shall be de-

16 terminated by the methods in force at the time by the Association of
17 Official Agricultural Chemists of the United States.

Sec. 3. Before any manufacturer, importer, jobber, firm, as-
2 sociation, corporation or person shall sell, offer or expose for sale
3 or distribute in this state any commercial feeding stuffs, he or
4 they shall file with the commissioner of agriculture a certified copy
5 of the statement specified in section two for each brand of com-
6 mercial feeding stuffs; said certified copy to be accompanied, when
7 the commission of agriculture shall so request, by a sealed pack-
8 age containing at least one pound of the commercial feeding stuffs
9 to be sold, offered or exposed for sale or distributed in this state,
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10 and the company or person furnishing said sample shall thereupon
11 make affidavit that the said sample is representative of the com-
12 mercial feeding stuffs offered for registration.

Sec. 4. Each and every manufacturer, importer, jobber, firm,
2 association, corporation or person manufacturing or selling any
3 commercial feeding stuffs as defined in section one of this act, shall
4 pay to the commissioner of agriculture an inspection tax or fee of
5 twenty cents per ton for each brand of commercial feeding stuffs
6 sold, offered or exposed for sale or distributed in this state, and
7 shall affix to or accompany each lot shipped in bulk, and to each
8 parcel or such commercial feeding stuffs, a tag, stamp or label to
9 be furnished by the commissioner of agriculture, stating that all
10 charges specified in this section have been paid. Whenever any
11 commercial feeding stuffs as defined in section one if offered or
12 exposed for sale in bulk or otherwise stored, the manufacturer,
13 importer, jobber, firm, association, corporation or person keeping
14 the same for sale shall keep on hand cards upon which shall be
15 printed the statement required by the provisions of section two,
16 and when such feeding stuffs is sold at retail in bulk or in pack-
17 age belonging to the purchaser, the manufacturer, importer, job-
18 ber, firm, association, corporation or person shall furnish the pur-
19 chaser with sufficient tax tags or stamps to cover the sale; and,
20 upon request, with a card, or cards, upon which appears the state-
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21 ment required by the provisions of section two.

Sec. 5. The commissioner of agriculture shall have power to
2 refuse to register any commercial feeding stuffs under a name,
3 brand, or trade mark, which would be misleading or deceptive, or
3-a which would tend to mislead or deceive as to the materials of

4 which it is composed, or when the specific name of each and all
5 ingredients used in its manufacture are not stated. He shall also
6 have the power to refuse to register more than one commercial
7 feeding stuff under the same name or brand when offered by the
8 same manufacturer, importer, jobber, firm, association, corpora-
9 tion or person. Should any commercial feeding stuffs be regis-
10 tered in this state, and it is afterward discovered that such regis-
11 tration is in violation of any of the provisions of this act, the said
12 commissioner of agriculture shall have the power to cancel such
13 registration. The commissioner of agriculture shall have the
14 power to refuse to allow any manufacturer, importer, jobber, firm,
15 association, corporation or person to lower the guaranteed analysis
16 or change the ingredients of any brand of his or their commercial
17 feeding stuffs during the term for which registered; unless satis-
18 factory reasons are presented for making such change or changes.

Sec. 6. Whenever a manufacturer, importer, jobber, firm,
2 association, corporation or person manufaturing or selling a
3 brand of commercial feeding stuffs, shall have filed the statement

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4 required by section three, and paid the inspection tax or fee, as
5 required by section four of this act, no other agent, importer, job-
6 ber, firm, association, corporation or person shall be required to
7 file such statement or pay such tax or fee upon such brand.

Sec. 7. The commissioner of agriculture is authorized in
2 person, or by deputy, to have free access to all places of business,
3 mills buildings, carriages, cars, vessels and parcels of whatsoever
4 kind used in the manufacture, transportation, importation, sale
5 or storage of any commercial feeding stuffs, and shall have the
6 power and authority to open any parcel containing or supposed
7 to contain any commercial feeding stuffs, and upon tender and
8-9 full payment of the selling price of said sample, to take there-
10 from in the manner prescribed in section eight, samples for analy-
11 sis. Said commissioner of agriculture shall annually cause to be
12 analyzed at least one sample so taken of every commercial feeding
13 stuff that is found sold, offered or exposed for sale or distributed
14 in this state.

Sec. 8. A representative sample of each brand of commer-
2 cial feeding stuff found sold, offered or exposed for sale, shall be
3 taken by the said commissioner of agriculture, or his duly author-
4 ized representative, in the presence of at least one witness. No ac-
5 tion shall be maintained for a violation of the provisions of this

6 act, based upon any analysis of a sample from not less than five

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7 separate original packages, unless there be less than five separate
8 original packages in the lot, in which case portions for the official
9 sample shall be taken from each original package; if the commer-
10 cial feeding stuff is in bulk, portions shall be taken from not less
11 than five different places in the lot; *provided*, that this does not
12 exclude sampling in bulk when not exposed sufficiently to take
13 portions from five different places, in which case portions are to
14 be taken from as many places as practicable. If the sample thus
15 secured is larger than is required, it shall be mixed and quartered
16 until a sample of suitable size remains. Said sample shall be di-
17 vided into two parts, and shall be placed in packages and sealed in
18 the presence of said witness. One of said packages so sealed
19 shall be held by the commissioner of agriculture at the disposal of
20 the person named on the tag or label of the feeding stuff sampled
21 for one year; the other package of the said commissioner of agri-
22 culture shall cause to be analyzed, and the result of each analysis,
23 together with such additional information as the said commis-
24 sioner of agriculture may deem advisable, shall be promptly trans-
25 mitted to the manufacturer or person responsible for the placing
26 of the commodity on the market, and shall be published in reports
27 or bulletins from time to time. The analytical work required by
28 this act shall be paid for out of the funds of the department of
29 agriculture for this purpose. The methods of analysis shall be

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30 those in force at the time by the association of official agricultural
31 chemists of the United States.

Sec. 9. If it appears that any of the provisions of this act
2 have been violated, the commissioner of agriculture shall certify
3 the facts to the proper prosecuting attorney, and furnish that offi-
4 cer with a copy of the results of the analysis or other examination
5 of such feeding stuffs, duly authenticated by the analyst or other
6 officer making the determination, under the oath of such officer;
7 *provided*, that if it shall appear from any such examination that
8 any of the provisions of this act have been violated, the said com-
9 missioner of agriculture shall cause notice to be given to the man-
10 ufacturer or dealer from whom said sample was taken; any party
11 so notified shall be given an opportunity to be heard in his de-
12 fense, under such rules and regulations as may be prescribed by
13 the said commissioner of agriculture, before the facts shall be cer-

14 tified to the proper prosecuting attorney. In all prosecutions arising
15 under the provisions of this act, certificates of the analyst or
16 other officer making the examination, or analysis when duly sworn
17 to by such officer, shall be *prima facie* evidence of the fact or facts
18 therein certified.

Sec. 10. Any manufacturer, importer, jobber, firm, association,
2 tion, corporation or person who shall sell, offer or expose for sale,
3 or distribute in this state, any commercial feeding stuffs without
4 having attached thereto or furnished therewith such tax stamps,
5 labels or tags as required by the provisions of this act, or who
6 shall use the required tax stamps, labels or tags a second time,
7 or use a counterfeit of such tax stamps, labels or tags, or who shall
8 impede, obstruct, hinder or otherwise prevent or attempt to prevent
9 said commissioner of agriculture, or his authorized agent, in
9 the performance of his duty in connection with the provisions of
10 this act, or who shall sell, offer, expose for sale or distribute in
11 this state any commercial feeding stuffs as defined in section one,
12 without complying with the requirements of the provisions of this
13 act; or who shall sell, offer or expose for sale or distribute in this
14 state any commercial feeding stuffs, which contain a smaller per
15 centum of crude protein, or crude fat, or a larger fiber than is cer-
16 tified to be contained therein; or who shall fail to properly state
17 the specific name of each and every ingredient used in its manu-
18 facture, shall be deemed guilty of a violation of the provisions of
19 this act, and upon conviction thereof, shall be fined not more than
20 one hundred dollars for the first violation, and not less than one
21 hundred dollars for each subsequent violation.

22 Any manufacturer, importer, jobber, firm, association, cor-
23 poration or person who shall mix or adulterate any feeding stuffs
24 with any substance or substances injurious to the health of live
25 stock or poultry shall be deemed guilty of a violation of the provis-
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26 ions of this act, and in addition to the penalty provided in this sec-
27 tion, the lot of feeding stuffs shall be subject to seizure, condemna-
28 tion and sale, as the court may direct; the proceeds from such sale
29 to be converted into the state treasury. The court may, in its dis-
30 cretion, release the feeding stuffs so seized when the requirements
31 of the provisions of this act have been complied with, and upon
32 payment of all costs and expenses incurred by the state in any
33 proceedings connected with such seizure.

Sec. 11. The commissioner of agriculture is hereby empowered to enforce the provisions of this act, and to prescribe the form of tags, stamps or labels to be used to show that the inspection tax or fee has been paid, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this act.

Sec. 12. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Senate Bill No. 203

[BY MR. HAWLEY.]

Introduced January 27, 1915. Referred to the Committee on Finance. January 28, reported back with the recommendation that it do pass. January 28, taken up in regular order, read a first time and ordered to a second reading.

A BILL to amend and re-enact sections eight and nine of chapter nine, acts of the legislature of one thousand nine hundred and eight (sections eight and nine of chapter twenty-eight-a, serial sections eight hundred and eighty-one and eight hundred and eighty-two of the code of one thousand nine hundred and thirteen), relating to rate and manner of laying levies, special debt levy-provisions as to certain funds, and certain acts prohibited and penalties.

Be it enacted by the Legislature of West Virginia:

That sections eight and nine of chapter, nine, acts of the legislature of one thousand nine hundred and eight (sections eight and nine of chapter twenty-eight-a, serial sections eight hundred and eighty one and eight hundred and eighty-two of the code of one thousand nine hundred and thirteen) relating to rate and manner of laying levies, special debt levy-provisions as to certain funds, and certain acts prohibited and penalties be amended and re-enacted so as to read as follows:

Sec. 8. If any county or any magisterial district or any school district, or any independent school district or any municipal corporation have outstanding unpaid orders on the treasury thereof, or

4 unsatisfied judgments, which orders were issued, or which judg-
5 ments were recovered previous to the first day of July in the year
6 one thousand nine hundred and fifteen, the amount whereof is so
7 considerable that it is impracticable to discharge the same out of the
8 proceeds of the regular levy, and the county court or board of
9 education or common council, as the case may be, deem it in-
10 advisable to submit to the voters of the county, district or mu-
11 nicipality the question of an additional levy, as provided in
12 section five, such court, board or council may lay a levy in
13 addition to said regular levy, to be called "special debt levy,"
14 not exceeding twenty cents on each one hundred dollars of the
15 valuation of the taxable property of the county, district or mu-
16 nicipality as the case may be, according to the last assessment
17 of such property, and continue such levy for as many years
18 as may be necessary to pay off such debt, but not longer. The
19 net amount produced by any such levy or by any additional
20 levy authorized by section five or by any special levy authorized
21 by section six, shall not be used for any other purpose, as to
22 such special debt levy than for the payment of such debt, or
23 as to such additional or special levy for the purpose or pur-
24 poses named in the order submitting the question to the voters.
25 The treasurer of each of such funds shall keep an accurate ac-
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26 count of the same separately from other funds. If, after pay-
27 ing off such debts, or effecting the object of said additional
28 levy, or of said special levy, any balance remains of any of
29 said funds, the same shall, first, revert to the sinking fund
30 of the county, or of the magisterial district, or independent school
31 district, or of the municipal corporation, as the case may be;
32 or, secondly, if there be no such sinking fund, it shall in case
33 the fund was raised by taxes levied throughout the county, revert
34 to the fund for general purposes of the county; if the fund was
35 raised by taxes levied on the property of a school district or
36 independent school district, said balance shall revert to the teach-
37 ers' fund of the district; if the fund was raised by taxes levied
38 on the property of a municipal corporation, said balance shall
39 revert to the fund for general purposes of the municipality; and
40 in case of a magisterial district, said balance shall revert to the
41 road fund thereof. *Provided, however,* that before any such
42 special debt levy may be laid as provided for in this section,
43 the same shall be submitted to and approved by the state tax com-

44 missioner. Before giving his approval, the state tax commis-
45 sioner shall require a certified statement or list showing in
46 detail the orders and judgments, including names of payees and
47 amounts thereof intended to be paid by such levy. The ap-
48 proval of the state tax commissioner shall be in writing, and

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49 filed with the clerk, secretary or recorder of the county court,
50 board of education, or municipality, as the case may be; and,
51 *provided, further*, that the right to lay such a levy shall expire
52 with the fiscal year ending June thirtieth, one thousand nine
53 hundred and eighteen; and, *provided, further*, that the owners or
54 holders of such orders or judgments, which represent such indebted-
55 ness, shall file the same with the clerk of the county court, secretary
56 of the board of education, or recorder of the municipality, as the
57 case may be, and it shall be the duty of every such clerk, secretary
58 or recorder to list such evidences of indebtedness in the order in
59 which presented, giving the number, date, the payee, the amount
60 thereof and the date when presented to the sheriff for paymnt,
61 and the present owner or holder; and it shall be his further
62 duty to make four copies of such list, one of which shall be
63 retained in his office, one certified to the state tax commis-
64 sioner, one to the sheriff or other treasurer of the fiscal body,
65 one to the county court and one to the board of education or
66 council before the first levy term of said bodies for the first
67 fiscal year next following the making of said lists; and that
68 such listed orders of indebtedness shall be paid in the order
69 in which they are so listed, out of the said special debt levy
70 as hereinbefore provided; and all persons or corporations owning
71 or holding such evidences of indebtedness as the owner, pledgee,
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72 assignee, or collateral security, who shall fail to present the
73 same for listing with said officers before the levy term in the
74 year one thousand nine hundred and seventeen, shall be forever
75 barred from bringing any suit, action or proceeding for the
76 purpose of collecting the same. No sheriff or other treasurer
77 of any fiscal body herein named shall apply any part of the
78 special debt levy hereby authorized except in payment of the
79 listed orders or evidences of debt hereinbefore provided for, and
80 in the order as herein provided for. And no sheriff or other treas-
81 urer shall pay any order, draft, or judgment, issued or re-
82 covered before July first, one thousand nine hundred and fifteen,

83 out of any funds in his hands, except the special debt fund herein
84 provided for, whenever the same is laid as herein provided for.

Sec. 9. It shall be unlawful for any county court, board of
2 education, or council of a municipal corporation or other body
3 charged with the administration of the fiscal affairs of any county,
3-a school district or independent district or municipality, to expend
4 any money or to incur any obligation or indebtedness which
5 such tribunal is not expressly authorized by law to expend
6 or to incur. Nor shall any such tribunal make any contract,
7 express or implied, the performance of which, in whole or in
8 part, would involve the expenditure of money in excess of funds
9 legally at the disposal of such tribunal, issue or authorize to

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10 be issued any certificate, order or other evidence of indebted-
11ness which cannot be paid out of the levy for the current year
12 or out of the fund against which it is issued. Nor shall any
13 such tribunal attempt to lay any levy, the rate whereof shall
14 exceed the rate specified by law. Any indebtedness created, con-
15 tract made or order or draft issued in violation hereof, shall be
16 void and of no effect, and any money received thereon may
17 be recovered from the person receiving the same by the fiscal
18 body who created, made or issued the indebtedness, contract, order
19 or draft.

20 Any member of any such tribunal, or any officer or person,
21 who in violation of any of the provisions of this act shall ex-
22 pend any money, or incur any debt or obligation, or make or
23 participate in the making of any such contract, or be party
24 thereto in any official capacity, or issue or cause to be issued
25 any such certificate, order or other evidence of indebtedness,
26 shall be personally liable therefor, both jointly and severally,
27 and an action may be maintained therefor by the state, or by
28 any county, municipal corporation, district or person prejudiced
29 thereby, in any court of competent jurisdiction; and any such
30 member, officer or person who shall negligently or wilfully vio-
31 late the provisions of this act shall be guilty of a misdemeanor,
32 and upon conviction thereof, shall be fined not more than five
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33 hundred dollars, or be confined in jail not more than one year,
34 or be both fined and imprisoned; and in addition thereto shall
35 forfeit his office. Whenever any court of competent jurisdiction
36 by mandamus, injunction, or trial of any action at law, or other

37 judicial proceeding, shall ascertain or determine that any mem-
38 ber or officer has negligently or wilfully violated any of the pro-
39 visions of this section, it shall enter an order declaring the office
40 of such member or officer forfeited.

41 Any taxpayer of the county, district, board, of education
42 or municipality, as the case may be, or the state tax commis-
43 sioner, for the use and benefit of the county, district, board
44 of education, or municipality as the case may be, may, in his
45 name institute and prosecute to final judgment (including the
46 right of appeal to the supreme court of the state), in any court
47 having jurisdiction, proper action, suit, or proceeding, against
48 the individual members of a county court, board of education,
49 municipal council, or other bodies in lieu thereof, to recover
50 from them any moneys expended in violation of, or without
51 authority of law. All moneys recovered in any such action,
52 suit or proceeding shall be paid into the treasury of the proper
53 fiscal body to the credit of the proper fund. The plaintiff, in
54 case he prevails, shall recover his costs against the defendants,
55 including a reasonable attorney's fee to be fixed by the trial

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56 court, and included in the taxation of costs. Any such tax-
57 payer, or the state tax commissioner, shall have the right to in-
58 stitute and prosecute to final judgment, any proceeding for the
59 removal of any member of any county court, board or educa-
60 tion, municipal council, or other bodies in lieu thereof, for
61 expending public moneys in violation of, or without authority of
62 law. Upon the filing of a petition by such taxpayer, or the
63 state tax commissioner, either in term or vacation, the court, or
64 judge, shall set a time for hearing such petition. An attested copy
65 of the petition, and specification of charges therein contained,
66 shall be served for a period of at least twenty days upon the
67 defendants named therein and no other pleading or notice of
68 such proceeding shall be necessary.

69 All acts and parts of acts inconsistent herewith are hereby
70 repealed.

Senate Bill No. 343

[By MR. McCrum, BY REQUEST.]

Introduced February 16, 1915. Reference to Committee dispensed

with; rules suspended and taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact section two of chapter forty-two of the code of West Virginia, as amended by chapter twelve, acts of one thousand nine hundred and thirteen, being serial section one thousand three hundred and sixty-one of the code of one thousand nine hundred and six, relating to the purpose for which private property may be taken or damaged.

Be it enacted by the Legislature of West Virginia:

Sec. 2. The public uses for which private property may be taken or damaged, are as follows:

First. For the construction of railroads, canals, turnpike roads, county roads, public landings, bridges and public streets and alleys, and all other roads and internal improvements for public use.

Second. For incorporated companies, of which the state is sole or part owner.

Third. For court houses and other public buildings and grounds for the use of the state or any county or municipal corporation.

Fourth. For cemetery associations, and for other cemeteries; S. B. No. 343]

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provided, that the property to be taken for such other cemeteries adjoins the land upon which a church or another cemetery is.

Fifth. For companies organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, when for public use.

Sixth. For telegraph and telephone companies, when for public use.

Seventh. For public school houses and all other purposes of public utility which are now or may hereafter be prescribed by law.

Eighth. By the government of the United States, for the purpose of erecting thereon light houses, signal stations, beacons, locks, dams, works for improving navigation, post offices, custom houses, court houses, or any other needful public structure or work of improvement whatever, subject to the provisions of chapter one of this code. But no land shall be so taken for cemetery purposes which lies within four hundred yards of a dwelling house, unless to extend the limits of a cemetery already located, and then only

31 so that such limits shall not be extended nearer to any dwelling
32 house which is within four hundred yards. But this act shall not
33 be construed to interfere with the power of municipal corporations
34 to enact and enforce such ordinances as may be necessary to
35 protect the lives and property of citizens from the effects of ex-
36 plosions of carbon oil or natural gas.

37 All acts or parts of acts inconsistent with this act are hereby
38 repealed.

Senate Bill No. 25

[BY MR. ROSENBLOOM.]

Introduced January 18, 1915. Referred to the Committee on Labor. Reported back February 2, with the recommendation that it do pass. February 15, rules suspended, taken up out of its regular order for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact chapter sixty of the acts of the session of the year one thousand nine hundred and eleven, relating to the employment of minors.

Be it enacted by the Legislature of West Virginia:

That chapter sixty of the acts of the legislature of the state of West Virginia of the session of the year one thousand nine hundred and eleven, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 1. No child under the age of fourteen years shall be employed, permitted or suffered to work in, about or in connection with any mine, factory, mill, workshop, or manufacturing establishment, store, office office building, restaurant, bakery, barber shop, hotel, laundry, place of amusement, or in any telegraph or telephone office, or in the delivery or transmission of merchandise or messages. No child under the age of fourteen years shall be employed, permitted or suffered to work at any business or service whatever during the hours the public school of the district in which he resides are in session, unless special permission in writing is granted by the person authorized in section five to issue employment certificates.

Sec. 2. No child under fifteen years of age shall be employed,

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2 permitted or suffered to work in, about, or in connection with any
3 of the occupations named in section one for more than nine hours
4 in any one day, nor more than fifty-four hours in any one week.

Sec. 3. No child under the age of fifteen years shall be em-
2 ployed, permitted or suffered to work in or about:

3 1. Mines, while the public schools of the district in which he
4 resides are in session.

5 2. Blast furnaces.

6 3. Dusts, operating or using any emery, tripoli, rough, car-
7 borundum, steel carborundum, any abrasive or any emery polishing,
8 or polishing wheel where articles of the baser metals or of iridium
9 are manufactured.

10 4. Electric wires, on the outside; erection and repair of elec-
11 tric wires.

12 5. Elevators, in the running or management of any eleva-
13 tors, lifts or hoisting machines.

14 6. Explosives, in or about establishments where nitro-glycer-
15 ine, dualin, gun cotton, or other high or dangerous explosives are
16 manufactured, compounded or stored.

17 7. Matches, in dipping, dying or packing.

18 8. Quarry, in or about.

19 9. Oiling or cleaning, in oiling or cleaning dangerous or hazard-
20 ous machinery in motion.

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21 10. Railroads, switch tending, gate tending, or track tend-
22 ing, as brakeman, fireman, engineer, motorman, conductor, tele-
23 graph operator.

24 11. Wharves, in or about.

25 12. Bakeries, dough brakes, or craker machines of any de-
26 scription.

27 13. Belts, adjusting belts (in motion), sewing belts (in any
28 capacity).

29 14. Boilers, operating any steam boilers or any steam ap-
29-a paratus.

30 15. Building trades, on scaffolding or on a ladder, or on
31 heavy work.

32 16. Burnishing machines, in any tannery or leather manufac-
33 tory.

34 17. Iron and steel, iron or wire straightening machinery,
35 punchers and shears.

36 18. Laundry machinery.

37 19. Paints and poisons, manufacture of paints, colors or
38 white lead, manufacture of any composition in which dangerous or
39 poisonous acids are used; manufacture or preparation of composi-
40 tion of dangerous or poisonous drugs; manufacture or preparation
41 of compositions with dangerous or poisonous gases; manufacture

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42 or preparation of lye, or in which the quantity thereof is injurious
43 to health.

44 20. Presses, cylinder or job; boring or drill.

45 21. Rubber, washing, grinding or mashing mill or calendar
46 rolls in rubber manufacturing.

47 22. Stamping machines, in sheet metal and tinware manufac-
48 turing, in washer and nut factories, in lace, paper and leather man-
49 ufacturing.

50 23. Theatre or concert hall.

51 24. Woodworking, wood shaper, wood jointer, planer or sand
52 paper wood polishing or wood turning machine.

53 25. Wool-cotton, hair, upholstering, carding machine, or ma-
54 chine used in picking wool, cotton, hair, or any upholstering mate-
55 rial.

56 26. Any other employment dangerous to life or limb, inju-
57 rious to the health, or depraving to the morals.

Sec. 4. No boy under the age of eighteen years and no female
2 shall be employed, permitted or suffered to work as a messenger for
3 telegraph, telephone or messenger companies in the distribution,
4 transmission or delivery of goods or messages before five o'clock in
5 the morning or after eight o'clock in the evening of any day, in cit-
6 ies of ten thousand population and over.

Sec. 5. No child under fifteen years of age shall be employed,
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2 permitted or suffered to work in, about or in connection with any
3 of the establishments or occupations named in section one of this
4 act, unless the person, firm or corporation employing such child pro-
5 cures and keeps on file, accessible to any truant officer, inspector
6 of factories or authorized agent of the humane society, an em-
7 ployment certificate as herein prescribed. On termination of em-
8 ployment of a child whose employment certificate is on file, such
9 certificate shall be forthwith returned by the employers to the
10 person who issued the same. The employment certificate shall
11 be issued only by the superintendent of schools, or by person au-

12 thorized by him in writing; or, where there is no superintendent
13 of schools, then by a person authorized by the local board.

14 *Provided*, that no member of a school board or other person
15 authorized as aforesaid, shall have authority to issue such certifi-
16 cate to any child then in or about to enter such person's own em-
17 ployment, or the employment of a firm or corporation of which
18 he is a member, officer or employe. The person authorized to
19 issue an employment certificate shall not issue such certificate un-
20 til he has received, examined and approved and filed the follow-
21 ing papers, duly executed:

22 *First*.—The school record of such child properly filled out
23 and signed by the principal or chief executive officer of the school
24 which such child has last attended, containing a statement certi-

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25 fying that the child is able to read intelligently and write legibly
26 simple sentences in the English language, and has completed a
27 course of study equivalent to that given in the first four grades
28 of the common schools. Such school record shall also give the
29 name, date of birth, place of residence, with the name of the
30 parent or guardian of such child as shown on the records of the
31 school.

32 *Second*.—A passport or duly attested transcript of the school
33 census showing the date and place of birth of such child.

34 *Third*.—The affidavit of the parent, or guardian, or custodian
35 of such child (which shall be required, however, only in cases no
36 one of the above mentioned proofs of age is obtainable,) showing
37 the date and place of birth of such child. Such affidavit must be
38 taken before the officer issuing the employment certificate, who is
39 hereby authorized and required to administer such oath without
40 demanding or receiving any fee therefor.

41 *Fourth*.—A written agreement of the person,, firm or corpo-
42 ration about to employ the child, describing the work the child
43 will be required to perform and agreeing on the termination of
44 such employment ,to return forthwith the child's certificate to the
45 officer who issued the same.

46 *Fifth*.—No employment certificate shall be issued until the
47 child in question has personally appeared before the officer issuing
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48 the certificate, nor until the officer has satisfied himself that the
49 child can read, and write legibly, simple sentences in the Eng-
50 lish language, and that the child is fourteen years of age or up-

51 wards, and has reached the normal development of a child of
52 its age, and is in sufficiently sound health, and physically able to
53 to perform the work which it intends to do. In all cases of doubt,
54 such development, health and physical fitness shall be deter-
55 mined by a medical officer of the board or department of health.
56 or by a physician appointed by the school board. Every such em-
57 ployment certificate shall state the race, residence, sex and the
58 date and the place of birth of the child and that the papers re-
59 quired by this section have been duly examined, approved and filed.
60 Every such certificate shall be signed in the presence of the offi-
61 cer issuing the same, by the child in whose name it is issued,
62 and it shall show the date of its issue. The employment certifi-
63 cate and other papers required by this act must be formulated
64 by the state superintendent of free schools, and furnished in
65 blank by the clerk of the local school board.

66 Every employment certificate and every vacation permit shall
67 be made out in duplicate. All duplicates shall be sent to the
68 state bureau of labor between the first and tenth days of each
69 month.

Sec. 6. Vacation permits shall be issued by the person au-

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2 thorized to issue employment certificates, to children between
3 twelve and fifteen years of age, on satisfaction of the same require-
4 ments, with the exception of the school record, as for the regular
5 employment certificates, and shall entitle their holders to work
6 in the occupation named in section one, during the summer school
7 vacation. They shall be known as vacation permits, shall be of
8 different color from the employment certificates, and shall state
9 plainly the date after which they are void.

Sec. 7. An inspector of factories, truant officer, or authoriz-
2 ed agent of the humane society, may make demand on any em-
3 ployer in or about whose place or establishment a minor appar-
4 ently under the age of fifteen years is employed, permitted or suf-
5 fered to work that such employer shall either furnish him within
6 ten days documentary evidence of age as specified in section
7 five, or shall cease to employ or permit or suffer such child to
8 work in such place or establishment.

Sec. 8. Before any operator, agent or mine foreman em-
2 ploys, permits, or suffers any boy under fifteen years of age, during
3 school term, or under fourteen years, during school vacation, to
4 work in, about or in connection with any mine, or coke oven he

5 shall first procure an affidavit from the parent, guardian or cus-
6 todian of such boy, stating the date and place of his birth. Such
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7 affidavit shall be filled out in duplicate, forwarded forthwith by
8 such operator, agent or mine foreman to the district mine in-
9 spector of the district in which said mine or coke oven is located.
10 The original shall be kept on file in the office of the mine fore-
11 man, accesible to the district mine inspector, truant officer or
12 authorized agent of the humane society.

Sec. 9. Whoever issues an employment certificate or a vaca-
2 tion permit without having first examined, approved and filed the
3 papers specified in section five, or who has not caused the child
4 to appear personally before him, or who has not satisfied him-
5 self that the child can read and write legibly, simple sentences in
6 the English language, and has reached the normal development
7 of a child of its age, and is in sufficiently sound health and physic-
8 ally able to perform the work which it intends to do, shall be
9 deemed guilty of a misdemeanor, and upon conviction thereof,
10 shall be fined not less than ten dollars, nor more than fifty dollars
11 for each offense.

Sec. 10. Whoever, whether he be the employer, parent,
2 guardian or custodian of any child, employs, permits or suffers
3 such child to be employed or to work in violation of any of the
4 provisions of this act, shall be deemed guilty of a misdemeanor,
5 and upon conviction thereof, shall be fined not less than ten dol-
6 lars nor more than fifty dollars for each and every ocense

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Sec. 11. It shall be the duty of the prosecuting attorney of
2 each county, and of the state commissioner of labor (or of the
3 chief mine inspector where the law applies to mines) to enforce
4 the provisions of this act; and to prosecute any persons, firm or
5 corporation charged with violation of the same before any mag-
6 istrate or court of competent jurisdiction in this state. It shall
7 be the duty of the truant officers, factory inspectors, mine in-
8 spectors, and authorized agents of the humane society to expose
9 all violations of this act to the prosecuting attorney, and to the
10 state commissioner of labor, (or to the chief mine inspector,) tru-
11 ant officers; and authorized agents of the humane society shall
12 have equal powers with factory and mine inspectors to enter any
13 place of employment mentioned in this act. All fines collected for
14 violation of this act shall be paid into the building fund of the

15 school district or independent district in which the offense is com-
 16 mitted.

Sec. 12. All acts or parts of acts inconsistent herewith are
 2 hereby repealed.

PRINTED BY ORDER OF THE COMMITTEE ON FORESTRY
 AND CONSERVATION.

Senate Bill No. 283

[BY MR. GREGORY.]

A BILL to amend and re-enact chapter eleven of the acts of one thousand nine hundred and thirteen, concerning hydro-electric companies producing and selling hydraulic, electric or other power; authorizing such companies to exercise the right of eminent domain; defining and regulating the powers, rights, duties and obligations of such companies, and levying taxes and assessments thereon; regulating the building and maintenance of dams across water streams, and of all structures, works and property connected or used in connection therewith.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Section 1. This chapter shall be known as the water power
 2 act.

3 In this act unless the context otherwise requires:

4 (a) "Commission," means the public service commission
 5 (of West Virginia, or any other officer or body hereafter authorized

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6 to exercise the powers or perform the duties now or hereafter con-
 7 ferred and imposed by law upon said public service commission.

8 (b) "Municipality" means any incorporated city, town
 9 or village in this state.

10 (c) "Permit," means a grant of authority under this act
 11 to construct, maintain and operate a dam in or across navigable
 12 or non-navigable waters for the development of hydraulic power
 13 and hydro-electric energy for sale to the public; or to construct,
 14 maintain and operate transmission lines and auxiliary power

15 plants operated by steam, gas or otherwise for the development and
16 sale to the public of electric or other energy or power; or for other
17 lawful purposes.

Sec. 2. All water streams within the state capable of de-
2 veloping hydraulic, electrical or other energy or power. shall be
3 under the control and supervision of the state; *provided, however,*
4 that nothing contained in this section shall deprive any riparian
5 owner of any right or interfere with his exercise of the same.

Sec. 3. Any corporation heretofore or hereafter organized
2 under the laws of this state, and which by its charter has the
3 right to manufacture, supply and sell to the public, hydraulic,
4 electrical or other energy or power produced by water as a motive
5 force, or produced by any auxiliary plant or plants operated by
6 steam or other power, belonging to such corporation, and which
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7 has been granted a permit by said public service commission, shall,
8 in additon to the other powers conferred by law, have the follow-
9 ing rights, powers and authority:

10 To acquire by condemnation, within the limits only of
11 the territory designated by the public service commission, the lands
12 and rights necessary for the construction and operation of dams
13 across any of the streams of this state, and works connected there-
14 with or useful thereto, either up or down streams therefrom, within
15 said limits; and to construct and operate at the site thereof or other
16 points, up or down stream therefrom, within the said limits, and
17 across said stream and dams, together with all works incident,
18 necessary or related thereto, and in connection therewith: to con-
19 demn, within said limits, lands or easements therein for the pur-
20 pose of impounding the waters of any water course or water courses
21 of the state, or of diverting the same without injury to the rights
22 of others; and to raise higher such dams, and to enlarge the
23 works necessary, incident or related thereto, either up or down
24 stream therefrom, within said limits designated by the public
25 service commission, as may be required or deemed expedient by
26 such corporations in the manufacture and supply of electrical or
27 other energy or power produced by water, steam, or gas as a motive
28 force.

29 To acquire by condemnation, within the limits only of the ter-
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30 ritory designated by the public service commission, all lands or

31 water or interests or rights or easements in lands or waters likely
32 or liable to be flooded or damaged by impounding or diverting the
33 water of any water course or its tributaries in this state, or neces-
34 sary for the construction or operation of dams or power houses or
35 works necessary, incident or related thereto, or likely or liable to
36 be flooded or damaged by the construction or operation or enlarge-
37 ment of the dams or works incident, necessary or related thereto,
38 or necessary to be damaged or taken in the construction, operation
39 or use of canals, flumes, tunnels, pipe lines, tail races or other wa-
40 ter ways, necessary, useful or convenient for the conveyance or
41-42 escape of the water used in the operation of such works or power
43 plants; but nothing herein shall be construed to prevent free ac-
44 cess to and from, and the reasonable free use of the water so im-
45 pounded, by the riparian owner, or to impair the rights of any
46 person to the free use of the water streams of this state.

47 To acquire by condemnation, within the limits only of the
48 territory designated by the public service commission the necessary
49 land for sub-stations and transmission lines; such corporations
50 shall have no right to condemn a private residence, nor any out-
51 house, garden or orchard within the curtilage of a private resi-
52 dence for a sub-station site, or for the right of way for its trans-
53 mission lines; but this shall not restrict the right of such com-
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54 pany to condemn for its dams and power stations the lands liable
55 to be flooded thereby, any dwelling house, orchard, ferry, water-
56 mill, mill-dam, mill-race, school-house, public or private cemetery,
57 county or private road, street or alley, or any other structure with-
58 in said flooded area.

59 In all cases just compensation shall be paid to the owner in
60 the manner provided by law for all property taken or damaged.

Sec. 4. Such corporations shall have the right and authority
2 to condemn and acquire thereby, within the limits only of the ter-
3 ritory designated by the public service commission, any water-mill,
4 steam-mill, mill-dam, mill-race, franchise, rights and powers
5 privileges, and appurtenances thereto belonging, with the area of
6 the lands and water courses liable to be flooded by its dams.

Sec. 5. Such corporations shall have the right and authority
2 to acquire by condemnation, within the limits only of the territory
3 designated by the public service commission, the right to flood
4 public and private ferries and the approaches thereto, but said
5 corporations in the event of acquiring said property by condemna-

tion shall re-locate and place public ferries and the approaches thereto in a condition satisfactory to the county court of the county in which said public ferries are located, and to the circuit court of said county or counties trying such condemnation proceedings.

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Sec. 6. Such corporations shall have the right and authority to acquire by condemnation, within the limits only of the territory designated by the public service commission, the right to flood private roads and shall have the right to flood public roads by first paying to the county court of the county in which the public roads are located, the cost of re-locating and making public roads in lieu thereof, satisfactory to the county court; also to acquire by condemnation, when necessary, any streets or alleys, or portions thereof, in incorporated cities and towns, and other public property.

Sec. 7. Such corporation shall have the right and authority to acquire by condemnation, and to flood, within the limits only of the territory designated by the public service commission, the lands embraced within public and private cemeteries; and the right and authority to acquire by condemnation other lands for the purpose of removing the bodies and monuments or other structures from such public or private cemeteries to such other lands. All the rights of the state of West Virginia in and to lands in such cemeteries to be flooded shall pass to and vest in such corporations, and the lands acquired for the removal of said cemeteries, shall vest in the state for the use and benefit of the owners of the cemeteries so condemned.

Before such corporations shall flood such cemeteries they
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shall remove the bodies, and monuments, or other structures on the lands acquired for such purpose and re-inter bodies and reset monuments under the direction and to the satisfaction of the circuit court. If the parties in interest fail to agree as to the location and area of the additional lands to be acquired in which to re-inter the bodies and on which to replace the monuments and other structures, the same shall be determined by the circuit court in which such condemnation proceedings are pending.

Sec. 8. Such corporations shall have the right and authority to acquire by condemnation, within the limits only of the territory designated by the public service commission, easements, ways and rights-of-way not exceeding a width of one hundred feet for the

5 total length of such rights-of-way, upon which to erect towers,
6 poles, or wire lines for the transmission, supply and sale of elec-
7 trical or other energy or power produced by water as a motive
8 force, or by steam power or otherwise; *provided*, that such corpo-
9 rations shall have no right without consent to construct and oper-
10 ate towers, poles, and wire lines upon the right-of-way of any
11 steam or electrical railway, pipe lines, telephone or telegraph com-
12 pany, except to cross the same. Such corporations shall have the
13 right to procure a right-of-way for crossing over any railroad,
14 pipe line, telegraph or telephone lines or other power companies'
15 lines, as provided in section eleven of chapter fifty-two of the code

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16 of West Virginia; but no such crossing shall be constructed ex-
17 cept in accordance with plans and specifications previously ap-
18 proved by the public commission.

Sec. 9. Such corporations shall have the right and authority
2 to erect and operate wires, poles and wire lines across public roads,
3 within the limits only of the territory designated by the public
4 service commission, and subject to the regulation thereof, and to
5 the reasonable regulations of the county court of the county in
6 which said roads are located.

Sec. 10. Such corporations shall have the right and author-
2 ity to acquire by condemnation, within the limits only of the ter-
3 ritory designated by the public service commission, ways and rights
4 of-way not exceeding a width of one hundred feet, for the purpose
5 of constructing earth, steam, and electric roads for the transporta-
6 tion of material, equipment and supplies required or useful in the
7 construction, or operation and maintenance of their dams and
8 works incidental and necessary thereto.

Sec. 11. Such corporations shall have the right and author-
2 ity to condemn, within the limits only of the territory designated
3 by the public service commission, the lands owned by churches and
4 their trustees, and public and private school house sites, when
5 within the area liable or likely to be flooded, or necessary for their
6 dams and generating stations.

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Sec. 12. Such corporations are hereby authorized to con-
2 demn the right to flood, raise or change the location of any pipe
3 line within the area liable or likely to be flooded or necessary for
4 their dams; *provided*, that in so doing the use of any such pipe
5 line shall not be destroyed, and such corporations shall have the

6 right to condemn the lands and easements necessary for raising
7 or changing the location of such pipe line.

Sec. 13. Such corporations shall have the right and author-
2 ity to remove any timber adjacent to said rights-of-way which may
3 endanger by shading, falling or otherwise, any of their works or
4 transmission lines, when they shall have acquired the right to do
5 so, and for that purpose may acquire such timber by condemnation.

Sec. 14. Proceedings for condemnation shall be governed by
2 chapter forty-two of the code of West Virginia. In proceedings to
3 condemn cemeteries, or to condemn lands for the purpose of re-
4 interring bodies, as provided in section seven hereof, notice shall
5 be given also to abutting land owners.

Sec. 15. No permit shall be granted under this act except to
2 a corporation created and organized under the laws of the state
3 of West Virginia. Nor shall any right, franchise or authority
4 granted under the provisions of this act ever be exercised, nor
5 shall any dam constructed under said provisions be operated, other

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6 than by a corporation created and organized under the laws of this
7 state.

Sec. 16. Such corporation shall be public service corpora-
2 tions, and shall be subject to all the provisions contained in chap-
3 ter nine of the acts of one thousand nine hundred and thirteen,
4 and any act amendatory thereof or supplementary thereto.

Sec. 17. Before such corporations shall exercise any of the
2 powers herein authorized, including the right to condemn prop-
3 erty or the right of eminent domain, they shall make application
4 to and have the approval of the public service commission, and
5 the permit provided for in section 3 of this act. In such applica-
6 tion shall be set forth in detail the location of the proposed dam,
7 or other method of impounding water; the area and character of
8 land that will be flooded by the impounded water; the amount of
9 water in gallons that will be impounded; the character of the
10 proposed dam; the horse power that will be developed thereby; the
11 approximate area and amount of land the corporation proposes
12 to acquire, and such other information as the public service com-
13 mission may require. With such application shall be filed general
14 plans and drawings of the proposed dam, and a statement of the
15 character of materials to be used therein. Detailed plans, specifi-
16 cations and drawings shall be filed with and approved by the pub-
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17 lic service commission before the work covered thereby shall be
18 commenced.

19 No land or other real estate shall be acquired by such corpora-
20 tion without the approval of the commission; and any such cor-
21 poration may make application to the commission at any time
22 after permit is granted for authority to acquire additional land or
23 other real estate, which shall be described in such application; and
24 the commission may issue a permit to the corporation to acquire
25 the same if in the discretion of the commission the same shall be
26 convenient or necessary for the purpose of the corporation. The
27 public service commission shall have power to employ expert engin-
28 eers or other experts or persons to examine and report upon such
29 locations plans, drawings and specifications.

Sec. 18. The public service commission shall require or may
2 authorize such changes in the location, plans, drawings or speci-
3 fications of any proposed dam as may be necessary for the pro-
4 tection of life and property, or for other reasons; and may refuse
5 the application if, in its discretion, the same should not be grant-
6 ed; or grant to such corporation a permit to exercise the powers
7 named in its application, or specified in the permit. The corpora-
8 tion shall then have the right to purchase property or condemn
9 the same, within the limit designated by the commission. for the
10 purposes named in this act. No court shall enter any order giv-

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11 ing any such corporation the right to condemn property except
12 within the limits only of said territory, and not then unless the
13 petition avers, and the averment be supported by competent proof,
14 that the public service commission has approved the location and
15 general plans and drawings of the proposed dam, and authorized
16 such corporation to condemn property. Before making application
17 to the public service commission for a permit, such corporation
18 shall give notice thereof by publication once in each week for four
19 successive weeks in two newspapers of general circulation publish-
20 ed in the county wherein the proposed dam is to be located, if
21 there be such; if not, by publishing the same in two newspapers
22 of general circulation in such counties, and by written or printed
23 notices posted, at least four weeks prior to making such applica-
24 tion, at fifty places within the area likely to be flooded by the wa-
25 ter to be impounded by such dam. The public service commis-
26 sion shall hear and consider any objections or remonstrances
27 against the proposed undertaking. Any corporation incorporated

28 for any of the purposes named in section 3 of this act, which has
29 filed application for a permit and any corporation which has lo-
30 cated a dam for such purposes and has expended as much as fifty
31 thousand dollars in the construction thereof on or before May
32 twenty-second, nineteen hundred and thirteen, shall have prior
33 right of location at the site covered by plans submitted to the pub-
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34 lic service commission by such corporation, but such priority right
35 of location shall not extend beyond June thirtieth, nineteen hun-
36 dred and sixteen, unless such corporation, on or before said date,
37 shall have secured a permit, or the approval of its plans and speci-
38 fications as provided in section 19, of this act. No priority of
39 location shall be recognized by the public service commission in
40 applications for permits hereafter filed under this act. In case
41 there are two or more applicants for permits covering the same
42 location, the commission shall have power to refuse to grant per-
43 mits to any or all such applicants, or to grant a permit to such
44 applicant as the commission, in its discretion, may deem best.

Sec. 19. Any corporation incorporated for any of the pur-
2 poses named in section 3, of this act, and which shall have in good
3 faith located a dam for its purposes, together with the probable
4 contour lines of the water proposed to be impounded thereby, and
5 which shall have actually expend as much as fifty thousand dollars
6 in the construction of said dam on or before May twenty-second, one
7 thousand nine hundred and thirteen, shall, as shall also its lessees,
8 successors, receivers, trustees or assigns, have all the powers, as to
9 such dam and the land and property within such contour lines,
10 conferred by this act without filing the application and obtaining
11 the permit named in this act; and such corporation shall not be
12 liable to any penalty provided by this act for failure to make such

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13 application and obtain such permit before proceeding with the
14 construction of such dam; but said commission may require or
15 authorize any change in the plans, drawings, specifications and
16 constructed portions of such dam as shall be necessary for the pro-
17 tection of life and property, or for other reasons, as hereinafter
18 provided. The commission shall have the same power as to the
19 further construction of said dam as if it were one for which an
20 application and permit were required under this act as hereby
21 amended.

Sec. 20. The public service commission shall have the power

2 to levy an assessment on any corporation making application to
3 said commission for a permit to build any dam over ten feet in
4 height or any structures and transmission lines necessary for the
5 production and transmission of hydraulic, electrical or other energy
6 or power, and on any corporation, its lessess, receivers, trustees,
7 successors or assigns, as specified in section nineteen of this act to
8 cover the cost of the employment of expert engineers or other ex-
9 perts or persons, to pass upon the plans and designs of dams, struc-
10 tures and transmission lines, in such an amount as may be deemed
11 proper by the said commission, and to be paid at such time as it
12 may demand, as a condition precedent to the consideration of any
13 application for a permit. The commission shall have the power
14 to levy an additional assessment on each applicant, from time to
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15 time, sufficient to pay the cost of a proper and sufficient inspection
16 of said dams, structures and transmission lines by qualified en-
17 gineers and inspectors, and the compensation of accountants, who
18 may be employed by the commission during the construction of
19 said dams, structures and transmission lines, and thereafter.

Sec. 21. The public commission shall have the power to
2 make such rules and regulations as it may deem necessary to carry
3 out the provisions of this act. The commission shall have the
4 power to examine any dam, whenever in its discretion the public
5 safety or welfare shall so require, and after hearing, either on its
6 own motion or on complaint, to make and serve an order direct-
7 ing any person, corporation, officer or board constructing, main-
8 taining or using any dam situate on any of the publicly or pri-
9 vately owned water or lands of this state, to make such dam safe
10 within a reasonable time, and in such manner as shall be specified
11 in such order. The commission shall determine what alterations,
12 additions, or repairs are necessary to make the same safe, and may
13 cause any dam to be removed on failure of the owners thereof to
14 comply with the commission's orders. The commission may, in
15 case of emergency, without notice, cause to be drawn, off, in whole
16 or in part, the water impounded in any dam, whether such dam
17 be situated on publicly or privately owned lands or waters of this
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18 state, whenever the commission shall determine that such action is
19 necessary to prevent impending damages to persons or property.

Sec. 22. The public service commission shall not grant or
2 issue a permit for the building of a dam above ten feet in height

3 which is not so designated as to satisfy the commission, after full
 4 investigation, that the ratio of resistance of the proposed dam
 5 against sliding, overturning, rupture, or failure from any cause
 6 whatsoever, will be not less than the ratio given in the following
 7 table for different heights of dams:

8	10 and less than 20 feet a ratio of 2 to 1
9	20 and less than 30 feet, a ratio of 3 to 1
10	30 and less than 40 feet, a ratio of 4 to 1
11	40 and less than 50 feet, a ratio of 5 to 1
12	50 and less than 60 feet, a ratio of 6 to 1
13	60 and less than 70 feet, a ratio of 7 to 1
14	70 and less than 80 feet, a ratio of 8 to 1
15	80 and less than 90 feet, a ratio of 9 to 1
16	90 and less than 100 feet, a ratio of 10 to 1
17	100 and less than 110 feet, a ratio of 11 to 1
18	110 feet and over, a ratio of 12 to 1.

19 Nor shall any such permit be granted or issued unless the
 20 public service commission finds and enters of record that the pro-
 21 posed dam will be safe and secure beyond doubt, and that
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22 the construction of such dam will be economically advantageous to
 23 the people of this state.

24 Before granting any permit for the appropriation of a power
 25 site and the construction of a dam, the public service commission
 26 shall make an investigation as to the effect of such construction
 27 upon any city, town or village, and as to the economic value and
 28 importance of all agricultural lands, forests, coal, oil, gas, mineral
 29 deposits, and other natural resources, likely or liable to be sub-
 30 merged, damaged, destroyed, rendered inaccessible, or more diffi-
 31 cult of access, within or adjacent to the contour of the area to be
 32 flooded by such dam. The findings of the public service commis-
 33 sion, upon such investigation, shall be made a part of the record
 34 of any order of the commission granting or refusing a permit for
 35 the appropriation of a power site or the construction of a dam. In
 36 no case shall the public service commission grant such permit
 37 where its investigation shall show that the economic value of the
 38 natural resources to be damaged or destroyed in the development
 39 of the proposed power site is greater than the economic value to
 40 the people of West Virginia of the power which might be made
 41 available by such development. In estimating and comparing such
 42 economic values, the commission shall consider such public incon-

43 venience as may result from the removal and re-location of roads,
44 bridges, railroads and other public utilities, the flooding of suit-

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45 able and desirable routes or locations for roads, railroads, or other
46 means of transportation, and other changes to be made necessary
47 by the development of such power site.

48 Before granting any permit for the appropriation of a power
49 site and the construction of a dam, the public service commission
50 shall ascertain to its satisfaction that at least three-fourths of the
51 **people, whose lives in the opinion of the commission might be en-**
52 **dangered by the construction of said dam, are willing that such**
53 **dam shall be constructed and have so indicated their permission**
54 **in writing.**

55 In considering an application for a permit to construct any
56 such dam, the public service commission shall have due regard for
57 public sentiment in the district to be affected, shall hold the safe-
58 guarding of life and property of the first importance and shall
59 take abundant precaution against loss or disaster which might result
60 from the failure of any such dam.

Sec. 23. In addition to the annual license tax on its charter,
2 as provided in chapter thirty-two of the code of West Virginia,
3 and all other taxes and assessments, every such corporation shall
4 pay an annual royalty to the state for the privilege of exercising
5 the rights, franchises and privileges granted under this act, which
6 annual royalty shall be based upon and measured by its gross in-
7 come derived from the sale of hydraulic, electrical, or other energy
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8 or power, and from all other sources. Such royalty until other-
9 wise fixed by law, shall be one per cent of such gross income for
10 the license year ending with the thirtieth day of June of each
11 year. Such royalty shall be ascertained by the state tax commis-
12 sioner under such rules and regulations as shall from time to time
13 be prescribed by him. For the purpose of ascertaining the same,
14 the president, secretary or treasurer or other managing officer of
15 such corporation shall file with the state tax commissioner within
16 thirty days after the thirtieth day of June of each year, a written
17 detailed report, under oath, showing the gross income of such cor-
18 poration for the year ending on the thirtieth day of June preced-
19 ing the filing of such report, and from what source or sources de-
20 rived. The state tax commissioner, or any person authorized by
21 him, is authorized, for the purpose of ascertaining such tax, to

22 take any evidence and examine under oath, which he is hereby au-
22 thorized to administer, any officer or agent of such corporation or
24 other person. The phrase "gross income," as used in this section,
25 shall mean that income which should be derived by such corpora-
26 tion from the sale of hydraulic, electrical or other energy or power,
27 and income derived from all other sources, either within or without
28 the state, whether direct or through any distributing or affiliated
29 company or agency. When the state tax commissioner has ascer-

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30 tained the amount of such royalty that any corporation should pay
31 for any year, he shall notify the corporation of the amount thereof
32 by written notice deposited in the post office, addressed to such
33 corporation at its principal office or place of business. Such find-
34 ing shall be final and conclusive, unless appealed from within thir-
35 ty days in the manner hereinafter provided.

36 All corporations purchasing electrical or other energy or pow-
37 er generated outside of this state and transmitting and selling the
38 same to the public in this state are public service corporations and
39 shall be subject to all the provisions of this act.

Sec. 24. Any corporation feeling itself aggrieved by the
2 findings of the state tax commissioner as to the amount of such
3 royalty shall have the right within thirty days from the date of
4 the notice mailed to it, as provided in section twenty-three hereof,
5 to appeal therefrom to the board of public works, which appeal
6 the board shall promptly consider and determine. The board
7 shall fix the amount of such royalty as it shall deem just and ac-
8 cording to law; and the corporation shall pay the same to the state
9 tax commissioner. If any such corporation shall fail or refuse to
10 file such report in the time prescribed therefor, or to make such re-
11 port as is required by this act, the state tax commissioner shall as-
12 certain from the best sources obtainable, the amount of such royalty
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13 which such corporation should pay, and no appeal shall lie from
14 his finding.

Sec. 25. If any corporation shall fail to pay the amount of
2 such royalty within sixty days after the date of the notice of the
3 amount thereof sent to it by the state tax commissioner, or within
4 thirty days after the amount is fixed by the board of public works
5 on appeal, the state tax commissioner shall proceed to collect the
6 same by any appropriate remedy, with a penalty of ten per cent
7 added thereto. Such royalty shall from the time of its ascertain-

8 ment by the state tax commissioner, or the board of public works,
9 on appeal, be a lien on all the property of the corporation in favor
10 of the state, superior to all other liens, except liens for taxes. All
11 such moneys collected by the state tax commissioner shall be paid
12 by him into the state treasury monthly.

13 The amount of any assessment levied by the public service
14 commission of any corporation, as provided in section twenty
15 hereof, shall be certified to the corporation and to the auditor by
16 the secretary of the commission, together with the date when such
17 assessment is payable, as fixed by the commission. It shall be the
18 duty of the corporation to pay the same into the state treasury
19 within the time so specified. Any such assessment shall be a lien
20 in favor of the state on all the property of the corporation on
21 which it is levied, superior to all other liens, except liens for taxes.

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23 If any corporation shall fail to pay the same within said time, it
24 shall be the duty of the auditor to collect the same in the manner
25 that taxes or other claims due the state are collected, with a pen-
26 alty of ten per cent added thereto. When paid the amount of
27 such assessments shall constitute a special fund, to be drawn out of
28 the treasury from time to time on the order of the public service
29 commission, to be expended for the purposes for which levied; and
30 such sums as may from time to time be paid into the treasury are
hereby appropriated for such purposes.

Sec. 26. Any corporation which exercises any of the rights
2 conferred by this act, shall be under the duty and obligation to
3 manufacture and sell to the state and to the people thereof to the
4 extent of their demand or to the limit of production, hydraulic
5 power, or electric current or energy or other power, without unjust
6 discrimination at reasonable rates, and in accordance with any
7 classification now or hereafter prescribed by law, at rates made or
8 approved by the commission. The commission upon its own mo-
9 tion or upon complaint shall have power to vacate any rate, and
10 to set aside rules or regulations which are unreasonable or unjust,
11 with right of appeal to the complainant or the corporation from
12 the decision of the public service commission to the circuit court
13 of Kanawha county, and an appeal from said court to the supreme
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14 court of appeals by the complainant, the corporation, or the com-
15 mission.

Sec. 27. The public service commission shall have the right to

2 regulate rates and charges for service to consumers of electricity
3 and other power produced by any public service corporation, at
4 the site described in the permit, and at all points where distributed
5 within this state; and to fix and determine the prices and manner
6 of the sale and distribution of the same. All such rates, charges
7 and tolls for electricity and other power produced by any public
8 service corporation shall be just and reasonable, and subject to the
9 regulation and control of the public service commission, as pro-
10 vided in chapter nine of the acts of one thousand nine hundred
11 and thirteen, and any act amendatory thereof or supplementary
12 thereto.

13 All forms of contract for the sale or delivery of electrical or
14 other energy or power by such corporations shall be as prescribed
15 and approved by the public service commission. No such contract
16 shall be made for a period longer than ten years, and no such
17 contract shall become effective unless made in accordance with
18 the rules and regulations prescribed by the public service commis-
19 sion.

Sec. 28. Nothing contained in this act shall be construed to

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2 interfere with the exercise of jurisdiction by the government of the
3 United States over navigable streams.

4 Whenever a permit is granted for the construction of a dam
5 across any stream or whenever any dam is constructed without
6 such permit under the provisions of section nineteen of this act,
7 and the public service commission decides that the public interest
8 and convenience so demand, the corporation building or owning
9 such dam shall construct, maintain and operate, without expense
10 to the state, in connection with such dam and accessory or appur-
11 tenant works, a lock or locks, booms, sluices, fish ways, boat hoists,
12 marine railway, by-pass canal, or other device or other structures
13 which the public service commission at any time may deem neces-
14 sary to the interest of navigation, in accordance with such plans
15 as the public service commission may approve. And said commis-
16 sion shall have power to determine whether tolls shall be charged
17 by such corporation for use of said locks, canals or other devices
18 constructed under the commission's order in the interest of navi-
19 gation, to prescribe rules and regulations for the use of such de-
20 vices and to fix the rates of any tolls that may be charged for the
21 use thereof.

Sec. 29. The jurisdiction of the public service commission

2 under this act shall extend to and include all persons, associations
3 of persons, firms, corporations, municipalities and agencies en-
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4 gaged in the generation of electricity or other power by water, and
5 the transmission of the same for the purpose of furnishing cus-
6 tomers with light, heat, or power, or for other purposes; and shall
7 also include the furnishing or transmission of water taken from
8 such dams for power, manufacturing, municipal, domestic, irriga-
9 tion or other purposes.

Sec. 30. The charter or franchise of any corporation now or-
2 ganized, or that shall be hereafter organized, to engage in or carry
3 on any business subject to the provisions of this act, shall be re-
4 newable only upon such terms and conditions as shall then be pre-
5 scribed by law.

Sec. 31. The commission shall have power, authority, and
2 jurisdiction to investigate, ascertain, and determine all reasonable
3 methods of construction, equipment, maintenance, and operation
4 of any dam and improvement so as to conserve and protect all pub-
5 lic and private rights in any of the waters of the state promote the
6 improvement of navigation, and protect life, health, and property.
7 The commission shall, at any time, in the interest of public safety
8 or public rights, order and require anything reasonable necessary
9 therefor. No franchise or permit granted under this act shall
10 limit the authority of the commission to protect and conserve all
11 public rights.

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Sec. 32. Any permit granted under the provision of this act
2 shall be in effect and continue for a period of fifty years from the
3 date of the filing of written acceptance and consent by the grantee
4 of all its terms, provisions and conditions, executed in such form
5 as the commission may order and approve, unless sooner revoked;
6 and such permit may at the expiration of said period of thirty
7 years be renewed upon such terms and conditions as the public
8 service commission or the legislature may then require or as shall
9 then be provided by law.

10 But any such permit may be revoked at any time by the public
11 service commission, after at least ten days' notice to the corpora-
12 tion, specifying the matters in which the corporation is in default.
13 and after hearing, for failure to comply with the provisions of this
14 act, or for misuser or non-user of its corporate rights, franchises

15 and privileges, subject to review by any court of competent juris-
16 diction.

Sec. 33. All issues of capital stock, bonds and other securi-
2 ties, and all mortgages, deeds of trust and other liens made by
3 such public service corporation for the purpose of raising funds to
4 be used by the said corporation and invested in its plant and prop-
5 erty, shall be subject to the approval of the public service commis-
6 sion.

Sec. 34. Every such corporation shall install and maintain a
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2 complete system of accounting to be prescribed for such corpora-
3 tion by the commission, according to which all financial transac-
4 tions and receipts and expenditures of the corporation shall be
5 kept and reported annually, and such additional reports shall be
6 made as may be required by the commission. The accounts and
7 vouchers for all receipts and disbursements may be examined and
8 audited by an expert accountant whenever the commission shall
9 order, and the reports of such accountants shall be filed and kept
10 in the office of the commission.

11 Such system of accounting shall be so kept as to show the de-
12 tailed and itemized cost of the power site, as referred to in sections
13 thirty-five and thirty-six hereof. After such corporation shall
14 have completed its plant and begun the sale of its products, the
15 public service commission shall make up and enter on its record
16 a detailed statement of the cost of the power site of such corpora-
17 tion; and may revise such statements at any time thereafter for
18 good cause, and on notice to the corporation.

19 Such corporation shall file with the commission a report for
20 each calendar year, giving the names and addresses of all stock-
21 holders of record, directors, officers, managers and superintendents,
22 and the salaries paid to each.

23 All expenses for organization and promotion, and engineer-
24 ing and legal services and salaries shall be just and reasonable.

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25 All discounts and charges by underwriters or by financial agents
26 for the marketing of bonds and other securities of said corporation,
27 shall be just and reasonable.

28 All bonuses, by way of stock or other obligations, given to
29 promoters for services, or in payment for alleged water rights or
30 locations of dam sites, having a purely speculative value and here-
31 tofore issued, shall be surrendered and cancelled, and in lieu there-

32 of, the fair cash value of such services and rights shall be ascer-
33 tained by the commission, and paid by said corporation.

34 The compensation to be paid to the accountants appointed to
35 act in behalf of the commission in auditing the accounts of said
36 corporations shall be paid out of the fund provided for in section
37 twenty of this act.

38 All permits, rights, franchises and privileges granted by this
39 act, or that may be granted under the provisions thereof, are grant-
40 ed subject to the right of the state, at any time after fifty years
41 from the date of the permit, upon at least one year's notice there-
42 of, to acquire all the property of the grantee acquired, constructed,
43 or maintained and used and useful in carrying out the purposes
44 for which the permit, rights, franchises and privileges were grant-
45 ed, at such value as may be determined by the public service com-
46 mission to be, a just compensation therefor; but no allowance shall
47 be made for unreasonable costs of financing for promoters' profits,
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48 or for the value of any permit, or of any franchise, right or privi-
49 lege granted by the state or any political sub-division thereof; pro-
50 vided, that no more shall be paid for the lands, buildings, wa-
51 ters, right-of-ways, easements, or any other portion of the power
52 site, than the value of such power site as ascertained by the com-
53 mission as provided in action thirty-four thereof.

Sec. 36. All permits, rights, franchises and privileges grant-
2 ed by this act, or that may be granted under the provisions thereof.
3 are granted subject to the right of the state, upon at least one
4 year's notice thereof, to acquire all the property of the grantee
5 acquired, constructed, or maintained and used and useful in carry-
6 ing out the purpose for which the permit, rights, franchises and
7 privileges were granted, at such value as may be determined by
8 the public service commission to be a just compensation therefor,
9 but no allowance shall be made for unreasonable costs of financing,
10 for promoters' profits, or for the value of any permit, or of any
11 franchise, right or privilege granted by the state or any political
12 sub-division thereof: provided, that no more shall be paid for the
13 lands, buildings, waters, rights-of-way, easements, or any other
14 portion of the power site, than the value of such power site as as-
15 certained by the commission as provided in section thirty-four
16 hereof.

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Sec. 37. No transfer, sale, lease, or assignment of the prop-

erty, rights or franchises of any corporation to which a permit has been granted under this act, or of any corporation named in section nineteen of this act shall be valid unless approved by the public service commission.

Sec. 38. Nothing in this act shall be so construed as to exempt or release any person, firm or corporation owning or operating any dam and appurtenant works under the provisions thereof from any common law or statutory liability for damages resulting from or growing out of the construction, maintenance, or operation of such dam, or works; or as in any manner affecting such liability of any person, firm or corporation; or as in any manner creating any liability on the part of the state for damages resulting from or growing out of the construction, maintenance, or operation of any such dam or works.

Sec. 39. Nothing in this act contained shall be construed so as to prevent any municipality or any public service corporation engaged in supplying water to any municipality from taking water for the purpose of such municipality and the use of the inhabitants thereof from waters impounded by any dam constructed and maintained by any public service corporation, under such regulations as the public service commission may prescribe.

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Sec. 40. If any improvement, maintained under any permit granted pursuant to the provisions of this act, shall be owned, leased, trustee, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner, whatsoever, so that the same form part of or in any way effect any unlawful combination, or shall be in any wise controlled by any combination in the form of an unlawful trust, or form the subject of any contract or conspiracy to limit the output of any hydraulic or hydro-electric power derived therefrom, or in any manner or degree in restraint of trade in the generation, sale, or distribution of hydraulic or hydro-electric power derived therefrom, the state may take possession by proceedings instituted by the commission as in cases of receivership: and in such proceedings the members of the commission shall be appointed to act as receivers during such period as the court may determine.

Sec. 41. No permit granted under this act shall become effective unless within ninety days after notice from the commission that the same has been granted, the grantee shall file with the

4 commission a written acceptance thereof. Any permit granted un-
 5 der this act and any approval of plans of corporations named in
 6 section nineteen of this act, shall be null and void unless the dam
 7 thereby authorized to be constructed be completed within five years

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8 from the time when such permit or approval becomes effective and
 9 in force. The commission may, however, upon good cause being
 10 shown, extend such time for an additional period as the commission
 11 may in its discretion determine.

Sec. 42. Any dam when authorized and erected in accordance
 2 with the provisions of this statute shall be considered a dam
 3 authorized by the legislature of this state at the particular site
 4 upon which the same is located.

Sec. 43. If any section, or part of a section, of this act here-
 2 after be held by any court to be unconstitutional, such decision
 3 and holding shall in no wise effect or render void the remainder of
 4 the act.

Sec. 44. All acts and parts of acts inconsistent herewith are
 2 hereby repealed.

Senate Bill No. 325

[BY MR. BLESSING].

Introduced February 10, 1915. Referred to the Committee on the
 Judiciary. February 12, reported back with the recommendation
 that it do pass; February 13, taken up in regular order for consider-
 ation, read a first time and ordered to a second reading. February
 18, read a second time, amended, and ordered to its engrossment
 and third reading.

A BILL to amend and re-enact chapter four of the code of West
 Virginia relating to the filling of vacancies in office owing to
 death, conviction or impeachment, failure to qualify, resignation
 or other disability.

Be it enacted by the Legislature of West Virginia:

Section 1. Elections to fill vacancies shall be for the unex-
 2 pired term; and shall be held at the same places as other elections
 3 and superintended, conducted and returned, and the results as-
 4 certainied, certified and declared in the same manner and by the

5 same officers, except as herein otherwise provided for; and the
6 person elected, having first duly qualified, shall enter upon the
7 duties of their respective offices.

Sec. 2. In case of death, conviction or impeachment, failure
2 to qualify, resignation or other disability of the governor, the
3 president of the senate shall act as governor until the vacancy
4 is filled or the disability removed; and if the president of the
5 senate, for any of the above named causes shall become inca-
6 pable of performing the duties of governor, the same shall devolve
7 upon the speaker of the house of delegates; and in all other

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8 cases where there is no one to act as governor, one shall be chosen
9 by the joint vote of the legislature. Whenever a vacancy shall
10 occur in the office of governor before the first three years of the
11 term shall have expired a direct primary election for nominations
12 shall be held within sixty days and the acting governor for the
13 time shall issue his proclamation accordingly, which shall be
14 published in one newspaper in each county, where such paper is
15 published, at least once in each week, for four successive weeks
16 prior to said direct primary election, and a new election for gov-
17 ernor shall take place to fill the vacancy within ninety days from
18 the date of such vacancy. *Provided, however* that in case the
19 vacancy shall occur on or after January first of any year in which
20 congressmen are to be nominated throughout the state by direct
21 primary election, the nominations for governor shall be made
22 at such direct primary election in the manner and at the time
23 provided for by law.

24 If there be a vacancy in the representation from this state
25 in the senate of the United States, the governor shall, within
26 ten days after the facts come to his knowledge, give notice thereof
27 by proclamation, to be published in such newspapers in the state
28 as he may deem best calculated to give information thereof to
29 the voters of the state.

30 In such proclamation he shall appoint some day, not more
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31 than seventy-five nor less than thirty days from the date thereof,
32 for holding the election to fill such vacancy, which election shall
33 be held by the commissioners of election in each county of the
34 state accordingly; and said commissioners shall make return of
35 the result of said election in the same manner as is prescribed
36 by law in case of the election of a senator in the congress of the
37 United States for a full term.

Sec. 3. If the office of secretary of state, auditor, treasurer, state superintendent of free schools, attorney general or commissioner of agriculture shall become vacant by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified.

Whenever a vacancy shall occur in the office of any or all of the offices, hereinbefore mentioned, before the first three years of the term of such other officer shall have expired, a primary election for the nomination of candidates for election to such office shall be held within sixty days after such vacancy shall have occurred and it shall be the duty of the governor, who is hereby authorized and directed in the premises to issue his proclamation thereof, which proclamation shall be published in two newspapers of opposite politics, if such there be in each of the

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several counties of the state, once a week for four successive weeks prior to the holding of such primary election. And after such primary election has been held for the purpose of nominating candidates for any or all of said offices, a special election shall be held to fill the vacancy or vacancies aforesaid. The proclamation shall also designate the time when the special election is to be held, and the same shall be at a date not less than thirty days nor more than sixty days after such primary election.

And, *provided, further*, that in case the vacancy in such office shall occur on or after the first day of January in any year in which members of the house of representatives to the congress of the United States are to be nominated and elected in this state, then the nominations for any or all of said officers to fill a vacancy shall be made at the same time and in the manner prescribed by law that nominations are made of candidates for the office of members of the house of representatives in congress.

In making nominations, as provided for in this act, the provisions of the primary election laws of this state shall apply, except so far as they may be inconsistent with this act.

Sec. 4. If from any cause a vacancy shall occur in the office of judge of the supreme court of appeals, or judge of a circuit court, the governor shall issue a writ of election to fill the

4 vacancy at the next general election, for the residue of the term,
5 and in the meantime, he shall fill such vacancy by appointment
6 until a judge is elected and qualified. But if the unexpired term
7 be less than two years, the governor shall fill such vacancy by
8 appointment for the unexpired term. Every such writ of elec-
9 tion shall be directed to the commissioners of elections in each
10 county of the state, in case it be to fill a vacancy in the supreme
11 court of appeals; and to the commissioners of elections in each
12 county in the judicial circuit, in case it be to fill a vacancy in
13 the office of judge of said circuit, and shall be published in one
14 newspaper in each county of the state or district in which such
15 paper may be published at least once in each week, for four suc-
16 cessive weeks prior to said election.

Sec. 5. If there be a vacancy in the representation from
2 this state in the house of representatives of the United States,
3 the governor shall, within ten days after the facts come to his
4 knowledge, give notice thereof by proclamation, to be published
5 in one newspaper in each county in the district where such va-
6 cancy may occur, as he may deem best calculated to give infor-
7 mation thereof to the voters of such district. In such proclama-
8 tion he shall appoint some day not less than twenty nor more
9 than thirty days from the date thereof for holding a direct pri-
10 mary election for nominations to fill such vacancy and the elec-

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11 tion to fill such vacancy in the house of representatives of the
12 United States shall be held sixty days after the nominations are
13 made as hereinbefore provided for, which election shall be held
14 by the commissioners of election in each county in the district
15 accordingly; and said commissioners shall make return of the
16 result of said election in the manner as is prescribed by law
17 in case of the election of such representative in congress for a
18 full term.

Sec. 6. In case of a vacancy during the recess of the senate
2 in any office which is not elective, the governor shall, by appoint-
3 ment, fill such vacancy until the next meeting of the senate,
4 when he shall make a nomination for such office, and the person
5 so nominated, when confirmed by the senate (a majority of all
6 the senators elected concurring by yeas and nays) shall hold his
7 office during the remainder of the term, and until his successor
8 shall be appointed and qualified. No person shall be appointed
9 during the recess of the senate who has been nominated to and re-
10 jected by the senate for the same office. The bonds, if any be re-

11 quired by law to be given by any officer so temporarily appointed
12 by the governor, shall be in such penalty as the governor may
13 prescribe.

Sec. 7. A writ of election to fill a vacancy in the legislature
2 shall be issued by the governor, when the vacancy occurs during
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3 the recess of the legislature, and by the president of the senate or
4 speaker of the house of delegates, as the case may be, when such
5 vacancy happens during the session, or a writ of election has not
6 theretofore issued. And it shall be the duty of the clerk of the
7 circuit court of the county in which the senator or delegate re-
8 sided at the time such vacancy occurs, if it occur by the death
9 of such senator or delegate in the recess of the legislature, to in-
10 form the governor thereof. The said writ shall be directed to the
11 sheriff of the proper county, or to the sheriffs of the several coun-
12 ties included in the delegate or senatorial district, as the case
13 may be, and shall prescribe the day for nominations by direct
14 primary election and the day of election; and every sheriff, on
15 receiving the same, shall immediately give notice thereof to the
16 commissioners of elections in the several districts of his county;
17 and shall also cause notice of the same to be conspicuously posted
18 at every place of voting in such county, and to be published in a
19 newspaper, if there be any published therein.

Sec. 8. When a vacancy shall occur in the office of clerk
2 of the circuit court, the said court or the judge thereof in vaca-
3 tion, shall fill the same by appointment until the next general
4 election, and the person so appointed shall hold his office until
5 his successor is elected and qualified. At the said general elec-
6 tion a clerk shall be elected to fill said vacancy for the unexpired

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7 term, and the said court, or the judge thereof in vacation, shall
8 cause a notice of such election to be published in one or more
9 newspapers printed in the county, if there be any such papers
10 printed therein, or in such other manner as will give full notice
11 of said election.

Sec. 9. Vacancies in the office of the county court commis-
2 sioner and clerk of the county court, justices and constables, shall
3 be filled by the county court of the county until the next general
4 election; at which election every such vacancy shall be filled by a
5 vote of the people for the unexpired term; of which election to fill
6 such vacancy, a notice shall be given by order of the county court,
7 and published as prescribed in the next preceding section, except

8 that such notice in case of an election to fill a vacancy in the office
9 of justice of the peace or constable, instead of being published in a
10 newspaper, may in the discretion of said court, be posted at the
11 front door of the court house of the county, and at each voting
12 place in the district wherein such vacancy occurs.

Sec. 10. A vacancy in the office of prosecuting attorney
2 happening after the last general election before the expiration
3 of the term of office of such attorney, shall be filled by the circuit
4 court of the county, or judge thereof, for the unexpired term;
5 otherwise it shall be filled by said court or judge until the next
6 general election; and a vacancy so happening in the office of sher-

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7 iff, surveyor of lands, or assessor, shall be filled by the county
8 court for the unexpired term; otherwise it shall be filled by the
9 said county court until the next general election. At
10 which general election every vacancy shall be filled by a
11 vote of the people, where an appointment has been made,
12 as aforesaid, from the next general election, for the unex-
13 pired term. A notice of every such election of prosecuting attor-
14 ney shall be given by order of the circuit court or the judge there-
15 of in vacation, and of the election of a sheriff, surveyor of lands,
16 or assessor, by the order of the county court or the president
17 thereof in vacation, as prescribed in the eighth section of this
18 chapter.

Sec. 11. The bond, if any be required by law, to be given
2 by the person appointed as aforesaid, shall be approved by the
3 court, or judge making the appointment, and be in such penalty
4 as said court or judge may direct.

Sec. 12. All expenses incurred for the publication of notices
2 under the provisions of this chapter shall be audited by the coun-
3 ty court and paid out of the county treasury.

Sec. 13. The words "county court," when used in this chap-
2 ter, shall be construed to mean and include every tribunal here-
3 tofore established and now existing in any county, for police and
4 fiscal purposes, in lieu of the county court.

12

Sec. 14. In the making of nominations for special elec-
2 tions, which are provided for in this act, the provisions of the
3 direct primary election law of our state shall be in full force and
4 effect, except so far as they are inconsistent with the provisions
5 of this act.

6 All acts and parts of acts inconsistent herewith are hereby
7 repealed.

PRINTED BY ORDER OF COMMITTEE ON THE JUDICIARY.

Senate Bill No. 37

A BILL to fix the salaries of sheriffs, clerks of the county court, clerks of the circuit court (or clerks of the circuit and criminal or intermediate courts), prosecuting attorneys and county assessors, and to provide for the employment and compensation of their deputies, assistants and other employes; to require the collection and payment of all fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other perquisites into the county treasury; to require retiring sheriffs to make settlement as treasurer at the end of their terms of office, and to provide penalties for the violation of any of the provisions hereof.

Be it enacted by the Legislature of West Virginia:

Sec. 1. All fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other perquisites of whatever kind which by law may now or hereafter be collected or received as compensation for service by any clerk of the county court, sheriff, clerk of the circuit court (or clerk of the circuit and criminal or intermediate court) prosecuting attorney and county assessors, shall be received and collected by such officer, for the sole

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8 use of the treasury of the county in which he is located and shall
9 be held as public moneys belonging to the county fund, and shall
10 be accounted for and paid over as such in the manner hereinafter
11 provided.

Sec. 2. Each clerk of the county court, sheriff, clerk of the circuit court (or clerk of the circuit and criminal or intermediate court), prosecuting attorney and county assessors shall have charge of and collect the fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other perquisites of whatever kind which are now or may hereafter be allowed by law. Whenever there is due the county and unpaid, for a period of more than six months, any fees, costs, percentages, penalties, commis-

9 sion, allowances, compensation, income or any other perquisites of
 10 any kind, it shall be the duty of the county court, or other tribunal
 11 in lieu thereof, by the prosecuting attorney, to proceed to the col-
 12 lection thereof in the circuit court, upon motion, whereof the
 13 defendant and the sureties on his bond shall have at least twenty
 14 days notice, or in any other manner provided for by law, and the
 15 amount so collected shall be paid into the county treasury to the
 16 credit of the general county fund.

Sec. 3. Each of the officers herein named shall keep full and
 2 regular accounts, subject at all times to the examination of the
 3 county court, or tribunal in lieu thereof, the state tax commission-
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4 er or any citizen of the state, of all sums charged or collected by
 5 said officers on account of official fees, costs, percentages, penal-
 6 ties, commissions, allowances, compensation, income and all other
 7 perquisites of whatever kind, and said books of accounts shall be a
 8 part of the records of the respective offices herein named belonging
 9 to the county, and shall be transmitted by each county officer to
 10 his successor in office. The system of books and accounts to be
 11 kept by the officers herein named shall be prescribed by the state
 12 tax commissioner, as provided by law.

Sec. 4. Each of the officers herein named shall at the end of
 2 each month pay into the county treasury all fees, costs, percentages,
 3 penalties, commissions, compensation, income and all other per-
 4 quisites of whatever kind collected by his office during said month,
 5 which moneys shall be credited to the general county fund.

Sec. 5. None of the officers named in this act shall be au-
 2 thorized to make any reduction, abatement or remission of any of
 3 the fees, costs, percentages, penalties, commissions, allowances,
 4 compensation, income or any other perquisites of whatever kind
 5 that it may be their duty to charge and collect. If any officer
 6 named in this act shall wilfully make default in the payment of
 7 fees, costs, percentages, penalties, commissions, allowances, com-
 8 pensation, income or any other perquisites of whatever kind re-
 9 ceived and collected by him, for a period longer than ten days

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9-a after the end of the month during which the same were col-
 10 lected, he shall be guilty of a misdemeanor, and upon conviction
 11 thereof, shall be fined not more than five hundred dollars and in
 12 the discretion of the court may be imprisoned not more than
 13 thirty days, and may be removed from his office, and he and the

14 sureties on his bond shall be liable for any and all such moneys
15 collected. If any officer named in this act shall fail to pay such
16 fees, costs, percentages, penalties, commissions, allowances, com-
17 pensation, income or any other perquisites of whatever kind, to the
18 treasurer of his county, and shall appropriate the same for his own
19 use, or shall fail to pay over such fees, costs, percentages, penalties,
20 commissions, allowances, compensation, income or any other per-
21 quisites of whatever kind to the sheriff within thirty days after a
22 demand in writing has been made upon him by the county court
23 of his county, or tribunal in lieu thereof, he shall be guilty of em-
24 bezzlement and upon conviction thereof, shall be confined in the
25 penitentiary not less than one nor more than five years, and shall
26 forfeit his office; and if any deputy or assistant of any of the of-
27 ficers named in this act shall appropriate to his own use any fees,
28 costs, percentages, penalties, commissions, allowances, compensa-
29 tion, income or any other perquisites of whatever kind, or fail to
30 pay the same to the sheriff within thirty days after demand has
31 been made upon him by the county court, or tribunal created in
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32 lieu thereof, he shall be guilty of embezzlement, and upon convic-
33 tion be confined in the penitentiary not less than one nor more than
34 five years.

Sec. 6. A poor person may be allowed by a court to sue or
2 defend a suit therein without paying fees or costs, whereupon he
3 shall receive from all officers, all needful services and process and
4 also the assistance of witnesses, without any fees to them therefor,
5 *except* what may be included in the costs recoverable from the
6 opposite party. A poor person, within the meaning of this sec-
7 **tion**, shall be one who shall make and file with the clerk of the
8 court or with the officer whose services may be demanded or **re-**
9 quired, an affidavit stating that he is pecuniarily unable to pay fees
10 or costs, and upon the filing of such affidavit, as aforesaid, then
11 such officer shall perform any services required by law to be per-
12 formed by him, as though the legal fees for such services had been
13 paid. If any person shall knowingly swear falsely in such affidavit,
14 and shall represent himself to be a poor person within the meaning
15 of this act, when in fact he is pecuniarily able to pay the fees fixed
16 by law in any suit or action wherein he is a party, he shall be
17 guilty of perjury, and upon conviction thereof he shall be confined
18 in jail not more than one year, and fined not more than five hun-

19 dred dollars, and shall be forever ineligible for any position of
20 honor or trust of public service in this state.

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Sec. 7. When any action at law, suit in equity or other proceeding is instituted, the clerk of the court wherein the same is instituted shall require from the plaintiff, (except persons mentioned in section six of this act), reasonable deposit of money for the services to be performed by himself, or any other officer named in this act; *provided, however*, that such clerk shall not be required to pay any part of such deposit to any officer (other than himself) for any services to be performed, unless he is directed so to do by the plaintiff at the time such deposit is made. The action, cause or proceeding wherein any deposit is made shall be credited therewith, and there shall be charged against such deposit all services performed by the clerk and all payments made by the clerk to any other officer for services performed by the latter; and at the end of the month said clerk shall only be required to pay into the county treasury such part of the deposit as has been earned by services performed by him or by any other officer whose services he had been directed by the sheriff to pay. Upon the appearance of any defendant to any action at law, suit in equity or other proceeding, such defendant (except persons mentioned in section six of this act) shall likewise be required to deposit with the clerk any reasonable amount, and the same shall be applied and accounted for in like manner as a deposit made by the plaintiff or petitioner. After demand by the clerk for deposit provided for in this section, he shall

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not be required to perform any service until the demand is complied with, unless affidavit is filed as provided for by section six of this act.

Sec. 8. On or before December first, one thousand nine hundred and sixteen each person elected to the office of clerk of the county court, clerk of the circuit court, (or clerk of the circuit and criminal or intermediate court), sheriff, prosecuting attorney and county assessor, shall file with the county court, or tribunal in lieu thereof, a detailed statement of the probable amount necessary to be expended for deputies, assistants and all other employees of their respective offices for the following calendar year, and every year thereafter; each of said officers shall, on or before December first, file a like statement, showing in detail the requirement of his office for the services of deputies, assistants and

13 all other employes for the year beginning January first, thereafter.
14 If any officer shall fail to file the statements hereby required, and
15 at the time required, he shall be guilty of a misdemeanor, and
16 upon conviction thereof, shall be punishable by a fine of not less
17 than fifty nor more than one hundred dollars, or imprisonment
18 not less than thirty days or more than six months, or both, at the
19 discretion of the court. The county court, or tribunal in lieu
20 thereof, shall, not later than fifteen days after the filing of said
21 statement, take up and consider the same and shall determine and

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22 fix an aggregate sum to be expended for the period covered by said
23 statement for the compensation of all such deputies, assistants and
24 other employes of said respective officers, which shall be reason-
25 able and proper, regard being had to the amount of labor neces-
26 sary to be performed by those to receive the same, and enter upon
27 its court order record a finding of its action.

28 The officers herein named shall appoint and employ such
29 deputies, assistants, and other employes in the manner provided
30 by law, as may be necessary for their respective offices, and fix
31 their compensation, and shall file with the clerk of the county
32 court or other tribunal in lieu thereof, a statement in writing show-
33 ing such action and setting forth the name of each deputy, assist-
34 ant and employe, the time for which employed and the monthly
35 compensation; but the compensation for all deputies, assistants
36 and other employes shall not exceed in the aggregate for each
37 office, the amount so fixed for that office by the county court, or
38 tribunal in lieu thereof, as hereinbefore provided. The compen-
39 sation of the sheriff, clerk of the county court, clerk of the circuit
40 court (or clerk of the circuit and criminal or intermediate courts),
41 prosecuting attorney and county assessor, shall be paid monthly
42 to those entitled to the same out of the county fund in the manner
43 provided by law, and the compensation of their deputies, assist-
44 ants and other employes, duly appointed or employed, after being
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45 so fixed shall be paid monthly to those entitled to the same out
46 of the county fund. The county court (or other tribunal in lieu
47 thereof), after filing the statement provided for by this section,
48 showing the names of the deputies, assistants and other employes,
49 the time for which employed and their compensation, may, by
50 order of record, authorize and direct orders or drafts on the sheriff,
51 payable out of the general county fund, to be drawn in favor of

52 the officer, his deputy, assistant, or employe named in such state-
 53 ment, in payment of the monthly salary to which such officer is
 54 entitled, and in payment of the monthly compensation to which
 55 his deputy, assistant or employe is entitled, and when such order
 56 has been entered of record, the president and clerk of the county
 57 court (or other tribunal in lieu thereof) shall be authorized to
 58 sign such orders and drafts for the purposes aforesaid; *provided*,
 59 *however*, that no orders shall be issued to the officer or deputy, as-
 60 sistant, or other employe until the officer has filed a detailed
 61 monthly statement with the sheriff and has filed with the county
 62 clerk a duplicate copy thereof, together with the receipt from the
 63 sheriff showing that he has paid into the county treasury all fees,
 64 costs, percentages, commissions, allowances, compensation, income
 65 and all other perquisites of whatever kind that have been collected
 66 by him during said month, as shown by said statement. The
 67 officers herein named shall have authority to discharge any deputy,

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68 assistant or other employe, by filing with the clerk of the county
 69 court or tribunal in lieu thereof, a statement in writing showing
 70 such action. All statements required to be filed by this section
 71 shall be verified by the affidavit of the person making them, and
 72 among other things contained in the affidavit shall be the state-
 73 ment that the amounts shown therein were the amounts actually
 74 paid or intended to be paid to the deputies, assistants or other em-
 75 ployes; that no rebates, agreements, understanding and expecta-
 76 tion that any part thereof shall be repaid to him, and that nothing
 77 has heretofore been paid or promised him on that account, and
 78 that if he shall thereafter receive any money, or thing of value,
 79 on account thereof, he will account for any pay the same to the
 80 county. Until the statements required by this section have been
 81 filed no allowances or payments shall be made to any officer for
 82 deputies, assistants or other employes.

Sec. 9. Before the clerk of the county court (or tribunal in
 2 lieu thereof) delivers an order upon the county treasury to any
 3 deputy, assistant or any other employe for his compensation, such
 4 person shall sign a receipt which shall be in the following form:

5 "No. 19....

6 "Received of....., clerk of the county
 7 court, or tribunal in lieu thereof, of county,
 8 draft payable to my order, drawn on the sheriff of said county,

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9 for dollars (\$.....) in full for all
 10 services as.....for.....
 11 (Here state service) (Here insert name of office)
 12 of said county ending
 13 (month and day)
 14 19....

15 I hereby certify that I have rendered the service as herein
 16 stated and that I have received the full sum set forth in the above
 17 receipt for my own use and benefit, and that I have not paid, de-
 18 posited or assigned, or contracted to pay, deposit or assign any
 19 part of such compensation for the use of any other person, or in
 20 any way, directly or indirectly, paid or given, or contracted to
 21 pay or give, any reward or compensation for such position or the
 22 emoluments thereof." All of said receipts shall be preserved and
 23 filed by the clerk of the county court, or tribunal in lieu thereof.

Sec. 10. If any clerk shall issue and deliver an order or
 2 draft to any sheriff, clerk of the county court, clerk of the circuit
 3 court (or clerk of the circuit and criminal or intermediate court),
 4 prosecuting attorney, county assessor, or any of their deputies, as-
 5 sistants, or employes, in payment of his compensation, without
 6 the requirements of section eight and nine hereof being complied
 7 with, the order so issued and delivered shall be illegal, invalid and
 8 of no effect, and such clerk and the sureties on his bond shall be

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9 liable to the county court of his county, or tribunal in lieu thereof,
 10 for the payment thereof.

Sec. 11. No officer shall receive or be paid, directly or in-
 2 directly, any part of the compensation of any deputy, assistant,
 3 or other employes, or any fee or reward for appointing him to
 4 such position. No member of a county court or tribunal in lieu
 5 thereof shall receive or be paid, directly or indirectly, any part
 6 of the compensation of any county officer named in this act, his
 7 deputy, assistant or other employe. Any violation of the pro-
 8 visions of this section shall be punishable upon conviction, by a
 9 fine of not exceeding five hundred dollars or imprisonment not
 10 exceeding one year, or both, and by forfeiture of the office.

Sec. 12. The annual compensation of the sheriff in each
 2 county shall be as follows:

3 Barbour county, two thousand five hundred dollars; Berke-
 4 ley county, two thousand five hundred dollars; Boone county,
 5 one thousand eight hundred dollars; Braxton county, two

6 thousand five hundred dollars; Brooke county, two thousand
 7 dollars; Cabell county, four thousand dollars; Calhoun county,
 8 one thousand eight hundred dollars; Clay county, one thousand
 9 eight hundred dollars; Doddridge county, three thousand dol-
 10 lars; Fayette county, four thousand dollars; Gilmer county, one
 11 thousand eight hundred dollars; Grant county, one thousand

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12 eight hundred dollars; Greenbrier county, two thousand five
 13 hundred dollars; Hampshire county, one thousand eight hundred
 14 dollars; Hancock county, two thousand dollars; Hardy county,
 15 one thousand eight hundred dollars; Harrison county, four
 16 thousand dollars; Jackson county, two thousand five hundred
 17 dollars; Jefferson county, two thousand five hundred dollars;
 18 Kanawha county, five thousand dollars; Lewis county, two
 19 thousand five hundred dollars; Lincoln county, two thousand
 20 dollars; Logan county, two thousand five hundred dollars;
 21 Marion county, four thousand dollars; Marshall county, three
 22 thousand dollars; Mason county, two thousand five hundred
 23 dollars; Mercer county, four thousand dollars; Mineral county,
 24 one thousand eight hundred dollars; Mingo county, four thous-
 25 and five hundred dollars; Monongalia county, three thousand
 26-27 six hundred dollars; Monroe county, one thousand eight
 28 hundred dollars; Morgan county, one thousand eight hundred
 29 dollars; McDowell county, five thousand dollars; Nicholas
 30 county, two thousand five hundred dollars; Ohio county, four
 31 thousand dollars; Pendleton county, one thousand eight hun-
 32 dred dollars; Pleasants county, two thousand dollars; Poca-
 33 hontas county, two thousand one hundred dollars; Preston
 34 county, three thousand five hundred dollars; Putnam county,
 35 one thousand eight hundred dollars; Raleigh county, three thou-

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36 sand five hundred dollars; Randolph county, three thousand dol-
 37 lars; Ritchie county, three thousand dollars; Roane county, two
 38 thousand five hundred dollars; Summers county, two thousand
 39 five hundred dollars; Taylor county, two thousand five hundred
 40 dollars; Tucker county, two thousand five hundred dollars; Tyler
 41 county, two thousand five hundred dollars; Upshur county, two
 42 thousand five hundred dollars; Wayne county, two thousand dol-
 43 lars; Webster county, two thousand two hundred dollars; Wetzel
 44 county, two thousand five hundred dollars; Wirt county, one

45 thousand eight hundred dollars; Wood county, four thousand dol-
 46 lars; Wyoming county, two thousand dollars.

47 The annual compensation of the clerk of the county court
 48 in each county shall be as follows:

49 Barbour county, two thousand dollars; Berkeley county, two
 50 thousand dollars; Boone county, one thousand eight hundred dol-
 51 lars; Braxton county, two thousand dollars; Brooke county, one
 52 thousand eight hundred dollars; Cabell county, three thousand
 53 dollars; Calhoun county, one thousand eight hundred dollars; Clay
 54 county, one thousand eight hundred dollars; Doddridge county, two
 55 thousand dollars; Fayette county, three thousand dollars; Gilmer
 56 county, one thousand eight hundred dollars; Greenbrier county
 57 two thousand dollars; Hampshire county, one thousand eight hun-
 58 dred dollars; Hancock county, one thousand eight hundred dollars;
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59 Harrison county, three thousand dollars; Jackson county, two
 60 thousand dollars; Jefferson county, two thousand dollars; Kana-
 61 wha county, four thousand dollars; Lewis county, two thousand
 62 dollars; Lincoln county, two thousand dollars; Logan county,
 63 two thousand dollars; Marion county, two thousand five hundred
 64 dollars; Marshall county, two thousand two hundred and fifty dol-
 65 lars; Mason county, two thousand five hundred dollars; Mercer
 66 county, three thousand dollars; Mingo county, three thousand five
 67 hundred dollars; Monongalia county, two thousand five hundred
 68 dollars; Monroe county, one thousand eight hundred dollars; Mor-
 69 gan county, one thousand eight hundred dollars; McDowell
 70 county, four thousand dollars; Nicholas county, two thousand
 71 dollars; Ohio county, three thousand dollars; Pleasants county,
 72 one thousand eight hundred dollars; Pocahontas county, one
 73 thousand eight hundred dollars; Preston county, two thousand
 74 five hundred dollars; Putnam county, one thousand eight hun-
 75 dred dollars; Raleigh county, two thousand five hundred dollars;
 76 Randolph county, two thousand dollars; Ritchie county, three
 77 thousand dollars; Roane county, two thousand dollars; Summers
 78 county, one thousand eight hundred dollars; Taylor county,
 79 two thousand dollars; Tucker county, two thousand dollars;
 80 Tyler county, two thousand dollars; Upshur county, two thou-
 81 sand dollars; Wayne county, one thousand eight hundred dol-

82 lars; Webster county two thousand dollars; Wetzel county, two
 83 thousand dollars; Wirt county, one thousand five hundred dol-

84 lars; Wood county, three thousand dollars; Wyoming county,
85 one thousand eight hundred dollars.

86 The annual compensation of the clerk of the circuit court (or
87 clerk of the circuit and criminal or intermedaite courts) in each
88 county shall be as follows:

89 Barbour county, two thousand dollars; Berkeley county, two
90 thousand dollars; Boone county, one thousand five hundred dol-
91 lars; Braxton county, two thousand dollars; Brooke county, one
92 thousand eight hundred dollars; Cabell county, three thousand
93 dollars; Calhoun county, one thousand five hundred dollars;
94 Clay county, one thousand five hundred dollars; Doddridge
95 county, two thousand dollars; Fayette county, three thousand
96 dollars; Gilmer county, one thousand five hundred dollars;
97 Greenbrier county, one thousand five hundred dollars; Hamp-
98 shire county, one thousand five hundred dollars; Hancock county,
99 one thousand five hundred dollars; Harrison county, three thou-
100 sand dollars; Jackson county, two thousand dollars; Jefferson
101 county, one thousand five hundred dollars; Kanawha county,
102 four thousand dollars; Lewis county, one thousand eight hundred
103 dollars; Lincoln county, one thousand five hundred dollars;
104 Logan county, one thousand eight hundred dollars; Marion

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105 county, three thousand dollars; Marshall county, two thousand
106 dollars; Mason county, one thousand eight hundred dollars;
107 Mercer county, three thousand dollars; Mingo county, three
108 thousand five hundred dollars; Monongalia county, two thousand
109 five hundred dollars; Monroe county, one thousand eight hun-
110 dred dollars; Morgan county, one thousand two hundred dollars;
111 McDowell county, four thousand dollars; Nicholas county, one
112 thousand eight hundred dollars; Ohio county, three thousand
113 dollars; Pleasants county, one thousand eight hundred dollars;
114 Pocahontas county, one thousand five hundred dollars; Preston
115 county, two thousand dollars; Putnam county, one thousand five
116 hundred dollars; Raleigh county, two thousand dollars; Randolph
117 county, two thousand dollars; Ritchie county, two thousand dol-
118 lars; Roane county, two thousand dollars; Summers county, two
119 thousand dollars; Taylor county, two thousand dollars; Tucker
120 county, one thousand eight hundred dollars; Tyler county, two
121 thousand dollars; Upshur county, one thousand eight hundred
122 dollars; Wayne county, one thousand five hundred dollars; Web-

165 Webster county, one thousand two hundred dollars; Wetzel county,
 166 one thousand eight hundred dollars; Wirt county, six hundred
 167 dollars; Wood county, two thousand dollars; Wyoming county,
 168 one thousand two hundred dollars.

169 The annual compensation of the clerks of the courts in the
 170 counties where both the office of the clerks of the county court
 171 and clerk of the circuit court are held by the same person, shall
 172 be as follows:

173 Hardy county, one thousand eight hundred dollars; Grant
 174 county, one thousand eight hundred dollars; Mineral county, two
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175 thousand four hundred dollars; Pendleton county, one thousand
 176 eight hundred dollars.

177 The annual compensation of the assessor in each county
 178 shall be as follows:

179 Barbour county, one thousand two hundred dollars; Berke-
 180 ley, one thousand two hundred dollars; Boone county, one thous-
 181 and dollars; Braxton county, one thousand dollars; Brooke
 182 county, one thousand dollars; Cabell county, two thousand dol-
 183 lars; Calhoun county, nine hundred dollars; Clay county, nine
 184 hundred dollars; Doddridge county, one thousand two hundred
 185 dollars; Fayette county, two thousand dollars; Gilmer county,
 186 nine hundred dollars; Grant county, nine hundred dollars;
 187 Greenbrier county, one thousand two hundred dollars; Hamp-
 188 shire county, eight hundred dollars; Hancock county, nine hun-
 189 dred dollars; Hardy county, eight hundred dollars; Harrison
 190 county, two thousand dollars; Jackson county, one thousand
 191 dollars; Jefferson county, one thousand dollars; Kanawha county,
 192 two thousand five hundred dollars; Lewis county, eight hundred
 193 dollars; Lincoln county, one thousand dollars; Logan county, one
 194 thousand dollars; Marion county, two thousand dollars; Marshall
 195 county, one thousand two hundred dollars; Mason county, one
 196 thousand two hundred dollars; Mercer county, two thousand dol-
 197 lars; Mineral county, one thousand two hundred dollars; Mingo
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198 county, two thousand dollars; Monongalia county, two thousand
 199 dollars; Monroe county, one thousand dollars; Morgan county,
 200 nine hundred dollars; McDowell county, two thousand five hun-
 201 dred dollars; Nicholas county, one thousand two hundred dollars;
 202 Ohio county, two thousand dollars; Pendleton county, six hundred
 203 dollars; Pleasants county, nine hundred dollars; Pocahontas

204 county, one thousand two hundred dollars; Preston county, one
205 thousand five hundred dollars; Putnam county, eight hundred
206 dollars; Raleigh county, one thousand eight hundred dollars;
207 Randolph county, one thousand five hundred dollars; Ritchie
208 county, one thousand eight hundred dollars; Roane county, one
209 thousand two hundred dollars; Summers county, one thousand
210 five hundred dollars; Taylor county, one thousand five hundred
211 dollars; Tucker county, one thousand two hundred dollars; Tyler
212 county, one thousand two hundred dollars; Upshur county, one
213 thousand two hundred dollars; Wayne county, one thousand dol-
214 lars; Webster county, one thousand two hundred dollars; Wetzel
215 county, one thousand five hundred dollars; Wirt county, eight
216 hundred dollars; Wood county, two thousand dollars; Wyoming
217 county, one thousand two hundred dollars.

218 And said salaries shall be in lieu of all fees, costs, penalties,
219 percentages, allowances, and all other perquisites, of whatever
220 kind which any of the officers herein named may now or here-

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221 after collect or receive, except as hereinafter provided.

Sec. 13. The county court, or tribunal in lieu thereof, of
2 every county shall, in addition to the compensation and salary here-
3 in provided, allow to the sheriff for keeping and feeding prisoners,
4 as provided by law the actual and necessary expenses incurred
5 therein, not to exceed fifty cents for day for each prisoner, and
6 shall allow actual and necessary expenses incurred or expended in
7 arresting, pursuing or transporting persons accused or convicted
8 of crime and offenses and in conveying or transferring to or from
9 any state institution to which any person may be committed from
10 his county, where by law, the sheriff is authorized to convey or
11 transfer such persons. Whenever a sheriff gives bond with a
12 fidelity and indemnity company as surety, the county court shall
13 pay the premium thereon, provided said premium shall not ex-
14 ceed one dollar and fifty cents per thousand dollars. Every sher-
15 iff shall file, under oath, monthly, a full, accurate and itemized
16 account of all his actual and necessary expenses mentioned in
17 this section before the same shall be allowed by the county court.

Sec. 14. The county court, or tribunal in lieu thereof, of
2 every county, at the expense of the county, shall provide at the
3 county seat thereof suitable offices for the sheriff, clerk of the
4 county court, clerk of the circuit court (or clerk of the circuit
5 and criminal or intermediate courts), prosecuting attorney and

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6 county assessor, and shall keep the same in adequate repair and
7 supplied with the necessary furniture, record books, stationery,
8 postage, fuel, light and such other things as the court deems
9 necessary.

Sec. 15. Nothing in this act shall be construed to require
2 any county officer to pay into the county treasury, any fees earned
3 prior to the time this act goes into effect. Fees are held to be
4 earned at the time the service is rendered and not at the time
5 the matter is finally adjudicated.

Sec. 16. The sheriff shall be ex-officio county treasurer of his
2 county and the several districts, school districts and independent
3 school districts thereof, and the word or designation "sheriff,"
4 whenever used in this act, shall be held to include the sheriff as
5 ex-officio treasurer of the county and the several districts, school
6 districts and independent school districts thereof. Between the
7 fifteenth and thirty-first days of December of the last year of
8 the retiring sheriff's regular term of office, said sheriff shall make
9 up a list of all uncollected taxes, shall make a complete settlement
10 with the county court and several boards of education in the man-
11 ner as provided for by law for settlements required at the end of
12 the fiscal year. The sheriff shall receive credit in said settlement
13 for the amount of taxes remaining unpaid, and said list of taxes
14 remaining unpaid, shall be turned over to his successor

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15 in office January first, whose duty it shall be to col-
16 lect said taxes and make up a delinquent list as pro-
17 vided and required by law; also to make settlement at the end
18 of the fiscal year with the county court, or tribunal in lieu there-
19 of, and the several boards of education in the manner as provided
20 for by law. The retiring sheriff shall, on January first, turn over
21 to his successor all public moneys, taking his receipt therefor.

Sec. 17. Nothing in this act shall authorize, or be con-
2 strued to authorize any county court, or tribunal in lieu there-
3 of, to compensate out of the public funds assistants or other help
4 to prosecuting attorney, except in counties wherein the prosecut-
5 ing attorneys are authorized by law to have assistants appointed
6 and the compensation paid out of the county treasury, within the
7 limits fixed by law, and no assistant prosecuting attorney in this
8 state shall be paid or allowed more than one thousand dollars
9 per year. In addition to his salary the prosecuting attorney shall

10 be reimbursed for actual traveling expenses within his county,
11 in the performance of his official duties, and when out of the
12 state for the purpose of taking depositions in cases in which other
13 counsel is not employed by the court under section 1, chapter 159,
14 Code one thousand nine hundred and six, which account shall be
15 duly itemized and verified, and shall, if found correct, be allowed
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16 by the county court, or tribunal in lieu thereof, and be paid month-
17 ly out of the general county fund.

Sec. 18. If, upon any examination made under authority of
2 chapter thirty-three, acts one thousand nine hundred and eight, it
3 is disclosed that the provisions of this act are not being complied
4 with, the state tax commissioner, or the governor, shall have
5 authority to institute, or cause to be instituted, the necessary pro-
6 ceedings to enforce the provisions of this act.

7 All books, records, blanks, forms and forms for verifica-
8 tions, required to carry out the provisions of this act, shall be pre-
9 scribed by the state tax commissioner. If any person shall swear
10 falsely in any verification required under this act, he shall be
11 guilty of perjury, and upon conviction thereof, he shall be punish-
12 able by a fine of not exceeding five hundred dollars or imprison-
13 ment not exceeding one year, or both, and by forfeiture of his office.

• Sec. 19. Every county officer named in this act shall, on
2 December 1, one thousand nine hundred and fifteen, and annually
3 thereafter, file with the county court or tribunal in lieu thereof,
4 and with the state tax commissioner, an itemized sworn statement
5 of the amount expended by him, including compensation, emolu-
6 ments and other outlay of money or things of value for the twelve
7 months next preceding the time of filing said report, for the ser-
8 vices of the several deputies, assistants and all other employes.

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9 If any person or officer shall fail to file the statements here-
10 by required, and at the time required, he shall be deemed guilty of
11 misdemeanor and upon conviction thereof, shall be punishable by a
12 fine of not less than fifty nor more than one hundred dollars, or
13 imprisonment not less than thirty days or more than six months, or
14 both, at the discretion of the court.

Sec. 20. It shall be the duty of each clerk of the county
2 court, sheriff, clerk of the circuit court (or clerk of the circuit and
3 criminal or intermediate courts), prosecuting attorney and county
4 assessor to make daily deposits of all moneys coming into his
5 hands in some bank or banks doing business in the county in which

6 such officer resides paying the highest rate of interest therefor and
7 approved by the governor, which said interest shall not be less than
8 two per cen. on daily balances; the said bank or banks securing
9 such deposits shall give to the state such bond as may be fixed and
10 approved by the county court. All profits, interest or emoluments
11 arising therefrom, shall be paid monthly by the respective officers
12 into the state treasury, if state funds, and into the county treasury,
13 if the same be county or district funds. The violation of any of
14 the provisions of this section shall be punishable upon conviction
15 by such penalties as are prescribed in section eleven of this act.

Sec. 21. It shall be unlawful for the sheriff, clerk of the cir-
2 cuit court (or clerk of the circuit and criminal or intermediate
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3 courts), prosecuting attorney or county assessor of any county to
4 share the salary of his office with any deputy or other person during
5 his term of office.

Sec. 22. All acts or parts of acts heretofore authorizing al-
2 lowances, fees, commissions, or any other compensation to be paid
3 to the sheriff, clerk of the county court, clerk of the circuit court,
4 (or clerk of the circuit and criminal or intermediate courts),
5 prosecuting attorney or county assessor, out of the moneys belong-
6 ing to the public (including state, county, road, district, school
7 district, independent school district and municipalities) are
8 hereby repealed. No county officer named herein shall receive for
9 his services any compensation of any kind whatsoever, or from any
10 person whatsoever, except as specifically provided by this act.

Sec. 23. This act shall take effect as to the clerks of the
2 county courts, clerks of the circuit court, (or clerks of the circuit
3 and criminal or intermediate courts), prosecuting attorneys and
4 county assessors on January first, one thousand nine hundred and
5 seventeen and as to sheriffs on July first, one thousand nine hun-
6 dred and seventeen.

7 All acts or parts of acts in conflict herewith are hereby re-
8 pealed.

Senate Bill No. 30

[BY MR. ROSENBLOOM—BY REQUEST.]

Introduced January 18, 1915. Referred to the Committee on the Judiciary. February 13, reported back with the recommendation that it do pass; taken up in regular order for consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact section nineteen of chapter one hundred and forty-five, of the code of West Virginia, relating to embezzlement.

Be it enacted by the Legislature of West Virginia:

That section nineteen, of chapter one hundred and forty-five, of the code of West Virginia be amended to read as follows:

Sec. 19. If any officer, agent, clerk or servant of this state, 2 or of any county, district, school district or municipal corporation, 3 or of any incorporated bank, or other corporation, or any officer 4 of public trust within this state, or any agent, clerk, or servant of 5 any firm or person, or company or association of persons not in- 6 corporated, embezzle or fraudulently convert to his own use bullion, 7 money, bank notes, security for money, or any effects or property 8 of any other person which shall have come into his possession, or 9 been placed under his care or management by virtue of his office, 10 place or employment, he shall be guilty of larceny thereof; and, if 11 any person, other than an officer, agent, clerk or servant, who shall 12 have the legal possession of bullion, money, bank notes, security for 13 money or other property of any other person, sell, dispose of, embez-

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14 zle or otherwise convert to his own use the same, he shall be guilty 15 of larceny thereof. In the prosecution of any officer, agent, clerk, 16 servant or other person, if it appear that the possession of such 17 bullion, money, bank notes, security for money or other property 18 is unlawfully withheld by such officer, agent, clerk, servant or other 19 person from the person or persons entitled thereto, and that such 20 officer, agent, clerk, servant or other person has failed or refused 21 to restore or account for such bullion, money, bank notes, security 22 for money or other property, within thirty days after proper de- 23 mand has been made therefor, such accused officer, agent, clerk, 24 servant or other person shall be presumed to be guilty of such of- 25 fense; but the accused may rebut such presumption by disproving 26 any such facts, or by other testimony, competent and germane to

27 the issue, upon the trial. An indictment for such offense shall be
28 sufficient if it be in form or effect as follows:

29 State of West Virginia,

30 County of, to-wit:

31 The grand jurors of the state of West Virginia in and for the
32 body of the county of, upon their oaths present
33 that on the day of, 191...,
34 in the county aforesaid did feloniously embezzle, convert to his own
35 use, and steal certain bullion, money, bank notes, securities for
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36 money and such other effects and property; against the peace and
37 dignity of the state.

38 And whenever any officer, agent, clerk or servant of this state,
39 or of any county, district, school district, or municipal corpora-
40 tion, shall appropriate or use for his own benefit, or for the ben-
41 efit of any other person, any bullion, money, bank notes, security
42 for money, or funds belonging to this state, or to any such county,
43 district, school district, or municipal corporation, he shall be held
44 to have embezzled the same, and be guilty of larceny thereof; and
45 the failure of any such officer, agent, clerk or servant to account
46 for or pay over, as required by law any such bullion, money, bank
47 notes, security for money or funds shall be *prima facie* evidence
48 that he has so appropriated or used the same for his own benefit
49 or for the benefit of such other person.

49-a All acts or parts of acts inconsistent with this act, are hereby
50 repealed.

PRINTED BY ORDER OF THE COMMITTEE ON LABOR.

Senate Bill No. 190

[BY MR.. ROSENBLOOM]

A BILL to amend and re-enact sections one, eight, nine, eleven, seven-
teen, eighteen, twenty, twenty-two, twenty-three, twenty-four,
twenty-six, twenty-eight, thirty-one, thirty-two, forty-three, fifty,
fifty-three and fifty-five, of chapter ten of the acts of West Vir-
ginia of one thousand nine hundred and thirteen, being the
Workmen's Compensation Law, and to insert therein sections eigh-

teen-a, eighteen-b, nineteen-a, nineteen-b, twenty-four-a, twenty-four-b, twenty-four-c, twenty-four-d, twenty-four-e and twenty-four-f, so as to provide for a method of classifying occupations, fixing rates of premiums for the same, keeping accurate accounts, creating a surplus or reserve fund, the readjustment of rates, the adoption of certain rules and regulations, the investment of reserve and other funds, a method of payment of compensation by employers directly to injured and to dependents of killed employes, and prescribing the powers and duties of the commission with respect thereto.

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Be it enacted by the Legislature of West Virginia:

That sections one, eight, nine, eleven, seventeen, eighteen, twenty, twenty-two, twenty-three, twenty-four, twenty-six, twenty-eight, thirty-one, thirty-two, forty-three, fifty, fifty-three and fifty-five of chapter ten of the acts of West Virginia of one thousand nine hundred and thirteen, being the Workmen's Compensation Law, be, and they are hereby amended and re-enacted to read as follows:

Sec. 1. That the commission created by the act entitled,
2 "An act to create a public service commission and to prescribe
3 its power and duties," etc., passed on the twenty-first day of
4 February, one thousand nine hundred and thirteen, which com-
5 mission, for the purpose of this act, shall be a body politic and
6 corporate under the name prescribed by said act, and shall ad-
7 minister the workmen's compensation fund provided for in this
8 act and perform the other duties herein specified. The said com-
9 mission, in the administration of said fund and the performance
10 of said duties shall be governed by the provisions of this act if
11 there be conflict between the same and the provisions of said act
12 creating said commission.

Sec. 8. The commission shall adopt reasonable and proper
2 rules to govern its procedure, regulate and provide for the kind
3 and character of notices, and the services thereof, in cases of ac-
4 cident and injury to employes, the nature and extent of the proofs
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5 and evidence, and the method of taking and furnishing the same;
6 to establish the rights to benefits or compensation from the fund
7 hereinafter provided for, or direct from the employers, as here-
8 inafter provided, as the case may require; the forms of appli-
9 cation of those claiming to be entitled to benefits or compensa-

tion therefrom, the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudications and awards shall be made.

Sec. 9. All persons, firms and corporations regularly employing other persons for profit, or for the purpose of carrying on any form of industry in the state of West Virginia, are employers within the meaning of this act, and are subject to its provisions. All persons in the service of employers, as herein defined, and employed by them for the purpose of carrying on the industries in which they are engaged (persons casually employed excepted) are employes within the meaning of this act, and subject to the provisions thereof; *provided*, that this act shall not apply to employers of employes in office, clerical, domestic, or agricultural service, to employes of any employer who are employed wholly without the state, nor shall a member of a firm of employers, or any officer of a corporation employer, including managers, superintendents and assistant managers and assistant

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superintendents be deemed an employe within the meaning of this act.

Sec. 11. Every employer subject to this act shall notify the commission of such fact. The commission shall prepare blank reports for the use of, and furnish the same to employers subject to this act, and every employer receiving from the commission any blank or blanks with directions for filling out and returning the same, shall return the same filled out so as to answer fully and correctly all pertinent questions therein propounded; and if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath, and returned to the commission within the period fixed by the commission for such return.

Sec. 17. The commission shall prepare and furnish free of cost blank forms, and provide in its rules for their distribution, so that the same may be readily available, of applications for benefits for compensation from the workmen's compensation fund, or directly from employers, as the case may be, notices to employers, proofs of injury or death, of medical attendance, of employment and wage earnings, and such other blanks as may be deemed proper and advisable, and it shall be the duty of em-

9 players to constantly keep on hand a sufficient supply of such
10 blanks.

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Sec. 18. For the purposes of this act the following classification of the industries subject thereto is adopted:

3 (1) Coal mines, including their tipples, power, light, heat-
4 ing and ventilating plants, tramways, private tracks and sidings,
5 and accessory and auxiliary plants working in or with by-products.

6 (2) Paint manufactories, oil refineries, oil and gas wells,
7 including their pipe lines, storage, power or light plants, tram-
8 ways, private tracks and sidings, and accessory and auxiliary
9 plants working in or with by-products.

10 (3) Iron and steel mills, including blast furnaces, smelters,
12 working in or with by-products, and plants generating power, light
12 working in or with by-products, and plants generating power, light
13 or heat and tramways, private tracks and sidings.

14 (4) Sheet and tin plate mills, including their accessory
15 and auxiliary plants working in or with by-products, and plants
16 generating power, light or heat, and tramways, private tracks
17 and sidings.

18 (5) Foundries, machine shops, fire-arms factories, tool fac-
19 tories, car building and repairing, structural iron works, and
20 working in or with iron or steel, not otherwise specified, where
21 power driven machinery is used, together with their accessory
22 and auxiliary plants working in or with by-products, and plants

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23 generating power, light or heat and tramways, private tracks
24 and sidings.

25 (6) Stamped metal works, can factories, enamel iron works,
26 and working in or with sheet iron or tin plate, not otherwise
27 specified, where power driven machinery is used, together with
28 their accessory and auxiliary plants working in or with by-pro-
29 ducts, and plants generating power, light or heat, and tramways,
30 private tracks and sidings.

31 (7) Logging, logging railroads and tramways, saw mills,
32 including their accessory and auxiliary plants working in or
33 with by-products, and plants generating power, light or heat, and
34 tramways, private tracks and sidings.

35 (8) Planing mills, wood pulp, cordage and paper mills,
36 box factories, cooperage plants, furniture factories, woodenware or

37 wood fibreware manufactories, vehicle works of every kind, in
38 cluding their accessory and auxiliary plants working in or with
39 by-products, and plants generating power, light or heat, and tram-
40 ways, private tracks and sidings.

41 (9) Glass houses of all kinds, including manufactories of
42 tableware, bar goods, bottles, tumblers, lamps, glass light fixture
43 parts, lamps, window and plate glass, potteries of all kinds,
44 including tile, bricks, terra cotta, fire clay, eathenware, porcelain,
45 china and crockeryware using automatic machinery, together with
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46 accessory and auxiliary plants working in or with by-products, and
47 plants generating light or heat, and tramways, private tracks and
48 sidings.

49 (9-a) Glass houses of all kinds, including manufactories of
50 tableware, bar goods, bottles, tumblers, lamps, glass light fixture
51 parts, lamps, window and plate glass, potteries of all kinds, in-
52 cluding tile, brick, terra cotta, fire clay, earthenware, porcelain,
53 china and crockeryware not using automatic machinery, together
54 with accessory and auxiliary plants working in or with by-
55 products, and plants generating power, light or heat, and tram-
56 ways, private tracks and sidings.

57 (10) Printing plants of all kinds, electrotyping, photo en-
58 graving, engraving, lithographing, embossing, book binding and
59 accessory and auxiliary lines of work and manufacture.

60 (11) Woolen mills, knitting mills, cotton mills, carpet and
61 rug mills, clothing manufactories of every kind and working in or
62 with textiles not otherwise specified.

63 (12) Breweries, bottling works, canneries of fruits, vege-
64 tables, oils, fish, milk or meat, manufactories of preserves, jellies,
65 ketchup, sauces, relishes, pickles, flour and feed mills, bakeries,
66 confectioneries, drug and extract manufactories, tobacco, cigar,
67 stogie and cigarette manufactories, in which power driven ma-
68 chinery is used.

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69 (13) Slaughter and packing houses, stock yards, soap, tallow,
70 lard and grease manufactories, tanneries, artificial ice, and refri-
71 gerating and cold storage plants, creameries, and carbon black
72 factories, in which power driven machinery is used.

73 (14) Steam laundries, dyeing and cleaning plants, stamping,
74 embossing and working with leather, shoe and harness manu-

75 factories, mattress and bedding factories, upholstering factories,
76 manufacturers of rubber goods, and auxiliary and accessory lines
77 of work and manufacture not otherwise specified.

78 (15) Steam and other railroads and transportation systems
79 not otherwise specified.

80 (16) Street and interurban railways, whether propelled by
81 electricity or other power.

82 (17) Telegraph and telephone plants and systems, electric
83 light and power plants and systems, steam heat and power plants
84 and systems, water works systems, gas works and systems, grain
85 elevators, and all lighting, heating or power systems not other-
86 wise specified.

87 (18) Quarries, stone crushers, gravel pits, mines, other
88 than coal mines, and working with asphalt, cement, stone or other
89 building material not otherwise specified, power propelled ferries,
90 sand diggers and other water craft.

91 (19) Such works, occupations and manufactories specified
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92 in the foregoing eighteen classifications as are operated without
93 power driven machinery.

94 (20) Match factories, powder mills, fire-works factories,
95 and works in which articles of an explosives nature are mixed or
96 manufactured.

97 (21) Construction of tunnels, shafts, bridges, trestles,
98 steeples, towers, grain elevators, tanks, water towers, wind mills,
99 subaqueous works, iron or steel frame structures, or parts of
100 structures, blast furnaces, smoke stacks, cupolas or chimneys more
101 than fifty feet high, water works and systems, electric lights and
102 power plants and systems, gas works and systems, installation of
103 steam boilers, engines and dynamos, steam railroads, logging rail-
104 roads, street railways and systems, boat building with scaffolds,
105 floating docks, engineering works, structural work on buildings
106 over three stories in height, not otherwise specified, and drilling
107 of wells.

108 (22) Construction and installation of sewers, fire escapes,
109 freight or passenger elevators, advertising signs, ornamental me-
110 tal work on or in buildings, metal ceilings, plate or window glass
111 electrical wiring, stairways, buildings which require galvanized
112 iron or tin work, marble, stone or brick work, roof work, slate
113 work, plumbing work, carpenter work, electric work, installing au-

114 tomatic sprinklers, electric or fire alarm systems, heating or
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115 ventilating systems, or machinery not otherwise specified, cov-
116 ering steam pipes and boilers, road and street making, street
117 or other grading, and structural work not otherwise specified.

118 (23) Such works or occupations not specified in the fore-
119 going classification in connection with which employer and em-
120 ploye shall voluntarily apply to the commission for the benefit and
121 protection of this act.

122 And it shall be the duty of the commission to classify and
123 place in one of the classes aforesaid any industries subject to
124 this act not hereinbefore specifically mentioned. And the commis-
125 sion shall have the power on or before the first day of January,
126 and the first day of July, of each year to re-classify the indus-
127 tries subject to this act, and to classify the several departments,
128 if more than one, of the same industry, or to create additional
129 classifications with respect to their respective degrees of hazard
130 and determine the risk of the different classes and fix the rates
131 of premium for each class, according to the risks of the same,
132 sufficiently large to provide an adequate fund for the compensa-
133 tion provided for in this act, and to create a surplus sufficiently
134 large to guarantee a workmens' compensation fund from year to
135 year. The classification so determined and the rates of premium
136 established shall be applicable for such half year. It shall be the
137 duty of the commission to fix and adjust at any time the premium
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138 rates of any single industry, upon the basis of safety devices
139 installed, and the degree of its hazard according to its previous
140 record, *provided*, that for the purpose of this act the pay of any
141 employe employed partly within and partly without this state
142 shall be deemed to be such proportion of the total pay of such
143 employe as his service within this state bears to his service out-
144 side the same. A mine worker shall be deemed to be wholly
145 employed in the state in which the tippie or principal mine en-
146 trance of the mine in or about which he works is situate.

147 The state shall pay the salaries of the members and em-
148 ployes of the commission, and other expenses of the adminis-
149 tration of the workmen's compensation fund upon order or
150 voucher approved and signed by the chairman and secretary of

151 the commission, directed to the auditor of the state, who shall
152 draw his warrant therefor.

Sec. 20. The treasurer of the state shall be the custodian
2 of the workmen's compensation fund as well as the surplus or
3 reserve fund, and all disbursements therefrom shall be paid by
4 him upon order or voucher, approved and signed by the chair-
5 man and secretary of the commission, and directed to the auditor
6 of the state, who shall draw his warrant therefor.

Sec. 22. Any employer subject to this act who shall elect
2 to pay into the workmen's compensation fund the premiums pro-
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3 vided by this act, or who shall have elected and received per-
4 mission to pay compensation direct to his injured and the de-
5 pendants of his killed employes, as hereinafter provided, shall not
6 be liable to respond in damages at common law or by statute for
7 the injury or death of any employe, however occurring after
8 such election and during any period in which such employer shall
9 not be in default in the payment of such premiums, or during
10 the interval of time in which such employer is permitted to pay
11 such compensation direct to his injured or the dependents of his
12 killed employes as herein provided; *provided*, the injured em-
13 ploye has remained in his service with notice that his employer
14 has elected to pay into the workmen's compensation fund the
15 premiums provided by this act, or has elected to make direct
16 payments of the compensation hereinafter provided for injured
17 and dependents of killed employes. The continuation in the
18 service of such employer with such notice shall be deemed a
19 waiver by the employe of his right of action as aforesaid.

Sec. 23. Each employer electing to pay the premiums pro-
2 vided by this act into the workmen's compensation fund, or electing
3 to make direct payments of compensation as hereinafter provided,
4 shall post in conspicuous places about his place or places of
5 business typewritten or printed notices stating the fact that he has
6 made such election, and the same when so posted shall constitute
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7 sufficient notice to all his employes of the fact that he has made
8 made such election.

9 No employer or employe shall exempt himself from the bur-
10 den or waive the benefits of this act by any contract, agreement,

11 rule or regulation, and any such contract, agreement, rule or reg-
12 ulation shall be *pro tanto* void.

Sec. 24. For the purpose of creating such workmen's com-
2 pensation fund, each employer subject to this act shall pay into
3 the state treasury the premiums of liability, based upon and be-
4 ing such a percentage of the pay roll of such employer as may
5 have been determined and published by the commission and be
6 then in effect. The premiums provided for in this act shall be
7 paid by the employers to the treasurer of the state, and be contri-
8 buted in the proportion of ninety per cent by the employers and ten
9 per cent by the employers. The premiums shall be paid
10 monthly on or before the twenty-fifth day of each month
11 for the preceding month, and shall be the prescribed per-
12 centage of the total wages paid to all employes sub-
13 ject to the act for such preceding month. Each employer is au-
14 thorized to deduct from the pay of his employes (excepting persons
15 casually employed), for any month, ten per cent of the premium
16 paid or to be paid for such month in proportion to the pay re-
17 ceived by them respectively for such month, the proper percentage

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18 to be deducted from each installment of pay, whether paid monthly
19 or more frequently, the minimum deduction from the earnings
20 of each employe for any month or part thereof for which set-
21 tlement is made to be five cents. Each employer shall give a
22 receipt or statement to each employe showing the amonut which
23 has been deducted for the workmen's compensation fund, and
24 shall file with the commission, on making his next payment to
25 the fund, a sworn statement showing what per cent of said pre-
26 mium herein provided to be paid by the employes (disregarding
27 fractions of a cent) had been deducted, and that no more than
28 ten per cent (subject to the minimum requirement aforesaid) had
29 been so deducted. The state treasurer shall issue his receipt for
30 any sums paid him hereunder in duplicate, the original to be
31 delivered to the person, firm or corporation paying the same and
32 the duplicate to be filed with the commission. *Provided, how-*
33 *ever,* that all such employers who will abide by the rules of the
34 commission and as may be of sufficient financial ability or credit to
35 render certain the payment of compensation to injured employes
36 or to the dependents of killed employes, and the furnishing of
37 medical, surgical, nursing and hospital attention and services and

38 medicines, and funeral expenses equal to or greater than is provide
39 for in this act, or such employers as maintain benefit funds or
40 departments, or jointly with other employers, maintain mutual as-
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41 sociations of such financial ability or credit, to which their em-
42 ployes are not required or permitted directly or indirectly to
43 contribute, providing for the payment of such compensation and
44 the furnishing of such medical, surgical, nursing and hospital
45 services, and attention and funeral expenses, may, upon a find-
46 ing of such facts by the commission, elect to pay individually or
47 from such benefit fund department or assocaiton such compensa-
48 tion and furnish such medical, surgical, nursing and hospital
49 services and attention and funeral expenses directly to such injured
50 or the dependents of such killed employes; and the commission
51 may require such security or bond from said employers as it
52 may deem proper, adequate and sufficient to compel, or secure to
53 such injured employes, or to the dependents of such employes as
54 may be killed, the payment of the compensation and expenses
55 herein provided for, which compensation shall, in no event, be less
56 than that paid or furnished out of the workmen's compensation
57 fund in similar cases to injured employes, or to the dependents
58 of killed employes, whose employers contribute to said fund; and
59 the said commission shall make and publish rules and regula-
60 tions governing the mode and manner of making application, and
61 the nature and extent of proof required to justify such finding
62 of facts by the commission as to permit such election by such em-
63 ployer, which rules and regulations shall be general in their ap-

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64 plications one of which rules shall provide that all employers
65 electing directly to compensate their injured and the dependents of
66 their killed employes as hereinbefore provided, shall pay into the
67 workmen's compensation fund such amount or amounts as are
68 required to be credited to the surplus or reserve fund in sub-section
69 two of section eighteen-a hereof.

Sec. 26. All employers subejct to this act who shall not have
2 elected to pay into the workmens' compensation fund the premiums
3 provided by this act, or having so elected, shall be in default in
4 the payment of same, or who shall not have elected and re-
5 ceived permission as hereinbefore provided to pay compensation
6 direct to his injured and the dependents of his killed employes,

7 shall be liable to their employes (within the meaning of this act)
8 for damages suffered by reason of personal injuries sustained in
9 the course of employment caused by the wrongful act, neglect or
10 default of the employer, or any of the employer's officers, agents or
11 employes, and also to the personal representatives of such em-
12 ployes where death results from such injuries, and in any action
13 by any such employe or personal representative thereof such defen-
14 dant shall not avail himself of the following common law de-
15 fenses:

16 The defense of the fellow-servant rule; the defense of the
17 assumption of risk; or the defense of contributory negligence; and
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18 further, shall not avail himself of any defense that the negligence
19 in question was that of some one whose duties are prescribed by
20 statute.

Sec. 28. Notwithstanding anything hereinbefore or herein-
2 after contained, no employe or dependent of any employe shall
3 be entitled to receive any sum from the workmen's compensa-
4 tion fund or to direct compensation from any employer making
5 the election and receiving the permission mentioned in section
6 twenty-four hereof, or otherwise under the provisions of this
7 act, on account of any injury to or death of an employe caused by a
8 self-inflicted injury, the wilful misconduct or the intoxication of
9 such employe. If injury or death result to an employe from the
10 deliberate intention of his employer to produce such injury or
11 death, the employe, the widow, widower, child or dependent of
12 the employe shall have the privilege to take under this act, and
13 also have cause of action against the employer as if this act had
14 not been enacted, for any excess of damages over the amount re-
15 ceived or receivable under this act.

Sec. 31. In case of temporary or partial disability, the em-
2 ploye shall receive during the continuance thereof sixty-six and two
3 thirds per cent of the impairment of his earning capacity, not to
4 exceed a maximum of fifteen dollars per week, nor to be less than
5 a minimum of five dollars per week, for not to exceed a period

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6 of twenty-six weeks; *provided*, that if such partial disability consist
7 of the loss of an arm or leg at or above the wrist in one case or
8 the ankle in the other, or the loss of an eye, the period for which

9 compensation shall be paid may be, but shall not exceed one
10 hundred and fifty-six weeks.

Sec. 32. In case of permanent total disability the award shall
2 be fifty per cent of the average weekly wage, and shall continue
3 until the death of such person so totally disabled, but not to
4 exceed a maximum of eight dollars per week nor to be less than
5 a minimum of four dollars per week.

Sec. 43. The commission shall have full power and au-
2 thority to hear and determine all questions within its jurisdiction,
3 and its decision thereon shall be final; *provided, however*, in
4 case the final action of said commission denies the right of the
5 claimant to receive compensation from the fund or from the em-
6 ployer, as the case may be, on the ground that the injury was
7 self-inflicted, or on the ground that the accident did not arise
8 in the course of employment, or upon any other ground going
9 to the basis of the claimant's right, then the claimant may, within
10 sixty days after notice of the final action of such commission,
11 apply for an appeal to the supreme court of appeals. The ap-
12 pellant shall file a petition before said supreme court of ap-
13 peals against such commission as defendant, within said period
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14 of sixty days, and the commission shall be notified by the clerk of
15 said court, forthwith, of the filing of such petition for appeal.
16 And the commission shall, within ten days after the receipt of
17 such proceedings before the commission including the receipt of
18 such notice, file with the clerk of said court the record of such pro-
19 ceedings before the commission, including a transcript of the evi-
20 dence. The court, or any judge thereof, may thereupon decide
21 whether an appeal shall be granted or not. If granted, the com-
22 mission and the claimant or the claimant's attorney shall be noti-
23 fied of the fact by mail. If an appeal is granted the case shall
24 be tried by said court in the same manner as other cases before
25 it, save and except that neither the records nor briefs need be
26 printed, and that every such appeal granted prior to thirty days
27 before the beginning of any term shall be on the docket for such
28 term, and such appeals shall have precedence over other cases on
29 such docket. The attorney general, without extra compensation,
30 or other counsel, if the commission see fit to employ the same, shall
31 represent the commission on such appeal. The supreme court, on
32 such appeal, shall determine the right of the claimant and certify

33 its decision to the commission, and if it determines the right in
34 his favor, the commission shall fix his compensation within the
35 limits and under the rules prescribed in this act. The costs of
36 such proceedings, including a reasonable attorney's fee, not ex-

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37 ceeding one hundred dollars, to the claimant's attorney, to be fixed
38 by the court, shall be taxed against the unsuccessful party. No
39 fees, expenses or costs shall be paid out of any compensation
40 awarded.

Sec. 50. Any person who shall knowingly secure or attempt
2 to secure larger compensation, or compensation for a longer term
3 than he is entitled to, from said workmen's compensation fund,
4 or directly from said employer, or knowingly secure or attempt
5 to secure compensation from said fund, or directly from said em-
6 ployer, when he is not entitled to any, shall be deemed guilty of
7 a misdemeanor, and upon conviction thereof, shall be fined not
8 exceeding five hundred dollars or imprisoned not exceeding twelve
9 months, or both, in the discretion of the court, and shall from and
10 after such conviction, cease to receive any compensation from such
11 fund, or otherwise.

Sec. 53. If any employer shall be adjudicated to be out-
2 side of the lawful scope of this act, the act shall not apply to
3 him or his employe; or if any employe shall be adjudicated to
4 be outside the lawful scope of this act, because of remoteness of
5 his work from the hazard of his employer's work, any such ad-
6 judication shall not impair the validity of this act in other
7 respects, and in every such case accounting in accordance with
8 the justice of the case shall be had of money received. If the
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9 provisions of this act for the creation of the fund, or the pro-
10 visions of this act making the compensation from the workmen's
11 compensation fund or directly from employers who comply with
12 the provisions of section twenty-four of this act to the employe
13 provided in it exclusive of any other remedy on the part of the
14 employe shall be held invalid, the entire act shall be thereby invali-
15 dated and an accounting according to the justice of the case shall
16 be had of money received. In other respects an adjudication of
17 invalidity of any part of this act shall not affect the validity of the
18 act as a whole or any part thereof.

Sec. 55. If the provisions of this act relating to compensa-

tion for injuries to, or death of workmen shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of any injury or death and such repeal, or the final adjudication of invalidity or unconstitutionality, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injuries or death, but the amount of any compensation which may have been paid on account of such injury or death, shall be deducted from any judgment for damages recovered on account of such injury or death.

Sec. 2. That the following provisions are hereby enacted

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as sections eighteen-a, eighteen-b, nineteen-a, nineteen-b, twenty-four-a, twenty-four-b, twenty-four-c, twenty-four-d, twenty-four-e and twenty-four-f of said act:

Sec. 18-a. It shall be the duty of the commission in the exercise of the powers and discretion conferred upon it in the preceding section, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the preceding section, ultimately to fix and maintain, for each class of the creation and maintenance of a reasonable surplus after the payment of legitimate claims for injury and death that it may authorize to be paid from the workmen's compensation fund for the benefit of injured and the dependents of killed employes; and in order that said object may be accomplished, the commission shall observe the following requirements in classifying occupations and fixing the rates of premium for the risks of the same.

(1) It shall keep an accurate account of the money paid in premiums by each of the several classes of occupations or industries, and the disbursements on account of injuries and death of employes thereof, and it shall also keep an account of the money received from each individual employer and the amount disbursed from the workmens' compensation fund on account of injuries and death of the employes of such employer.

(2) Ten per centum of the money that has heretofore
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been paid into the workmen's compensation fund and ten per centum of all that may hereafter be paid into such fund shall be set aside for the creation of a surplus or reserve fund until such surplus or reserve shall amount to the sum of one hundred

13 thousand dollars, after which time the sum of five per centum
14 of all the money paid into the said fund shall be credited to such
15 surplus or reserve fund, until such time as, in the judgment of
16 the commission, such surplus shall be sufficiently large to guar-
17 antee a workmen's compensation fund from year to year.

18 (3) On the first day of July, 1915, and semi-annually
19 thereafter, a readjustment of the rates shall be made for each
20 of the several classes of occupation or industry which, in the
21 judgment of the commission, have developed an average loss ratio,
22 in accordance with the experience of the commission in the ad-
23 ministration of the law as shown by the accounts kept as pro-
24 vided herein.

25 (4) Should any such accounting show a balance remaining
26 to the credit of any class of occupation or industry, after the
27 above mentioned amounts have been credited to the surplus fund
28 and after the payment of all awards for injury or death law-
29 fully chargeable against the same, the premium rate for such
30 class shall be reduced; and, each individual member of such
31 class, who has been a subscriber to the workmen's compensa-

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32 tion fund for a period of six months or longer, prior to the time
33 of such readjustment, and whose premium or premiums so paid
34 to the fund exceeds the amount of the disbursements from the
35 fund on account of injuries or death to his employes during such
36 period, shall be entitled to a credit on the installment or in-
37 stallments of premium next due from him. the amount of which
38 credit shall be such proportion of said balance as the amount of
39 his prior paid premiums sustains to the whole amount of said
40 premiums paid by the class to which he belongs since the last
41 readjustment of rates.

Sec. 18-b. The commission shall adopt rules and regulations
2 with respect to the collection, maintenance and disbursement of
3 the workmen's compensation fund; one of which rules shall pro-
4 vide that in the event the amount of premiums collected from any
5 employer at the beginning of any period of six months is ascer-
6 tained and calculated by using the estimated expenditure of
7 wages for the period of time covered by such premium payments as
8 a basis, that an adjustment of the amount of such premium shall
9 be made at the end of such six months period and the actual
10 amount of such premium shall be determined in accordance with

11 the amount of the actual expenditure of wages for said period;
12 and, in the event such wage expenditure for said period is less
13 than the amount on which such estimated premium was collected,
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14 then such employer shall be entitled to receive a refund from
15 the workmen's compensation fund of the difference between the
16 amount so paid by him and the amount so found to be actually
17 due, or to have the amount of such difference credited on succeed-
18 ing premium payments at his option, and should such actual pre-
19 mium, when ascertained as aforesaid, exceed in amount the pre-
20 mium so paid by such employer at the beginning of such six
21 months' period, such employer shall immediately upon being ad-
22 vised of the true amount of such premium due, forthwith pay
23 to the treasurer of state an amount equal to the difference between
24 the amount actually found to be due and the amount paid by him
25 at the beginning of said six months' period.

Sec. 19-a. The treasurer of state is hereby authorized to
2 deposit any portion of the workmen's compensation fund not
3 needed for immediate use in the same manner and respect to
4 all the provisions of the law with respect to the deposit of state
5 funds by such treasurer; and all interest earned by such portion
6 of the workmen's compensation fund as may be deposited by
7 the state treasurer in pursuance of authority herein given shall be
8 collected by him and placed to the credit of such fund.

Sec. 19-b. The commission shall have the power to invest
2 any of the surplus of reserve belonging to the workmen's compen-
3 sation fund in bonds of the United States, the state of West Vir-
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4 ginia, or of any county, city, town, village or school district of
5 the state of West Virginia, at current market prices for such
6 bonds; *provided*, that such purchase be authorized by a resolution
7 adopted by the commission and approved by the governor; and it
8 shall be the duty of the officers of the several school districts, coun-
9 ties and municipalities of the state in the issuance and sale of
10 bonds for their respective school districts, counties and munici-
11 palities, to offer in writing to the commission, prior to advertis-
12 ing the same for sale, all such issues as may not have been taken
13 by the trustees of the sinking fund of the school districts, counties
14 or municipalities so issuing such bonds; and said commission
15 shall, within ten days after the receipt of such written offer, either

16 accept the same and purchase such bonds or any portion thereof,
17 at par and accrued interest, or reject such offer in writing, and
18 all such bonds so purchased forthwith shall be placed in the hands
19 of the treasurer of state, who is hereby designated as custodian
20 thereof, and it shall be his duty to collect the interest thereon as
21 the same becomes due and payable, and also the principal there-
22 of and to pay the same, when so collected, into the workmen's
23 compensation fund. The treasurer of state shall honor and pay
24 all vouchers, drawn on the workmen's compensation fund for the
25 payment of such bonds when signed by any two members of the
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26 commission, upon delivery of said bonds to him when there is
27 attached to such voucher a certified copy of such resolution of
28 the commission authorizing the purchase of such bonds; and the
29 commission may sell any of said bonds upon like resolution and
30 the proceeds thereof shall be paid by the purchaser to the treasurer
31 of state upon delivery to him of said bonds by the treasurer.

Sec. 24-a. The commission shall receive and pass upon all
2 applications for compensation or benefits for injured employes
3 or the dependent of killed employes of employers who shall have
4 elected to pay such compensation or benefits directly to such in-
5 jured employes and dependents of killed employes, and who shall
6 have otherwise complied with the provisions of this act, and shall
7 ascertain and determine the amounts which may be due from
8 such employers to such injured or the dependents of killed em-
9 ployes for medical, nurse and hospital services, and for funeral
10 expenses in cases of death, as the case may be; and shall ascertain
11 and determine the amounts which may be due from such employers
12 to such injured and the dependents of killed employes in all cases
13 of injury or death within the provisions of this act, and shall pre-
14 scribe the time and terms of the payment in conformity with the
15 provisions hereof by such employers of all such charges, expenses,
16 compensation or benefits, and designate the person or persons to
17 whom the same shall be so paid, and shall certify the same to the

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18 employer or employers entitled to pay the same in every case,
19 and in the event of the failure, neglect or refusal of the employer
20 to pay such charges, expenses, compensation or benefits to the
21 person or persons entitled thereto, within the time so prescribed
22 by the commission, the same shall constitute a liquidated claim

23 for damages against such employer in the amount so ascertained
24 and determined by the commission, which, with an added penalty
25 of fifty per centum may be enforced in an action in the name
26 of the state for the benefit of the person or persons entitled to
27 the same, or otherwise, in accordance with such rules and regu-
28 lations as may have been prescribed by the commission with re-
29 spect to the enforcement of such claims against any security or
30 bonds furnished by such employers thereunder.

Sec. 24-b. If any award under the provisions of sections
2 twenty-four and twenty-four-a shall require the payment of com-
3 pensation or benefits by an employer in periodical payments, and
4 the nature of the case makes it possible to compute the present
5 value of all future payments with due regard to life contingencies,
6 the commission may, in its discretion, at any time, compute and
7 permit or require to be paid into the workmen's compensation
8 fund an amount equal to the present value of all unpaid compen-
9 sation for which liability exists, in trust; and thereupon such
10 employer shall be discharged from any further liability upon such
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11 award and payment of the same shall be assumed by the work-
12 men's compensation fund.

Sec. 24-c. Employers who comply with the provisions of
2 section twenty-four of this act shall not be liable to respond in
3 damages at common law or by statute, save as hereinafter pro-
4 vided, for injury or death of any employe, wherever occurring
5 during the period covered by such premium so paid into the
6 workmen's compensation fund, or during the interval of time in
7 which such employer is permitted to pay such compensation di-
8 rect to his injured, or the dependents of his killed employes, as
9 herein provided.

Sec. 24-d. All employers electing directly to compensate
2 their injured employes in compliance with this act, shall pay to
3 such injured employes, or to the dependents of employes who have
4 been killed in the course of their employment, unless such injury
5 or death of such employe has been purposely self-inflicted, or
6 caused by wilful misconduct or intoxication of such employe, the
7 compensation, and shall furnish such medical, surgical, nurse and
8 hospital care and attention or funeral expenses as would have
9 been paid and furnished by virtue of this act under a similar

10 state of facts, by the commission, out of the workmen's compen-
11 sation fund, in case said employer has paid the premium pro-
12 vided by this act, into said fund.

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13 And such payment or payments to such injured employes or
14 to their dependents in case death has ensued, shall be in lieu
15 of any and all rights of action whatsoever against the employer
16 of such injured or killed employes.

Sec. 24-e. Any employe whose employer has failed to comply
2 with the provisions of section twenty-four hereof, who has been
3 injured in the course of his employment, wheresoever such injury
4 has occurred, and which was not purposely self-inflicted, or caused
5 by the wilful misconduct or intoxication of such employe, or his
6 dependents in case death has ensued, may, in lieu of proceedings
7 against his employer by civil action in the courts, as provided in
8 section twenty-six hereof, file his application with the commis-
9 sion for compensation in accordance with the terms of this act
10 and the commission shall hear and determine such applications
11 for compensation in like manner as in other claims before the
12 commission; and the amount of the compensation which said com-
13 sion may ascertain and determine to be due to such injured em-
14 ploye or to his dependents in case death has ensued, shall be paid
15 by such employer to the person entitled thereto within ten days
16 after receiving notice of the amount thereof as fixed and determ-
17 ined by the commission; and in the event of the failure, neglect
18 or refusal of the employer to pay such compensation to the per-
19 son entitled thereto, within said period of ten days, the same
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20 shall constitute a liquidated claim for damages against such em-
21 ployer in the amount so ascertained and fixed by the commission,
22 which with an added penalty of fifty per centum may be recov-
23 ered an action in the name of the state for the benefit of the per-
24 son or persons entitled to the same. And the commission shall
25 adopt and publish rules and regulations governing the procedure
26 before the commission provided in this section, and shall prescribe
27 forms of notices and the mode and manner of serving the same in
28 all claims for compensation arising under this section. Any suit,
29 action or proceeding brought against any employer under the pro-
30 visions of this section, may be compromised by the commission,
31 or such suit, action or proceeding may be prosecuted to final judg-
32 ment, as in the discretion of the commission may best subserve

33 the interests of the persons entitled to receive such compensation.

Sec. 24-f. Every employe, or his legal representative, in case
2 death results, who makes application for an award, or accepts
3 compensation from any employer who elects, under section twenty-
4 four of this act, directly to pay such compensation, waives his
5 right to exercise his option to institute proceedings in any court,
6 except as provided in section forty-three hereof.

Sec. 3. All acts and parts of acts in conflict with this act
2 are hereby repealed.

Sec. 4. This act shall be in effect from and after the thir-
2 tieth day of June, one thousand nine hundred and fifteen.

Senate Bill No. 14

[BY MR. CARTER.]

Introduced January 18, 1915. Referred to the Committee on the
Judiciary. February 1, reported back with recommendation that it
do pass; February 2, rules suspended, taken up out of its regular order,
read a first time, and recommitted to the Committee on the Judiciary;
February 4, reported back with recommendation that it do pass. Feb-
ruary 6, rules suspended, taken up out of its regular order, and ordered
to a second reading. Feb. 9, rules suspended taken up out of its
order, made a special order for February 10 at 10:30 o'clock a. m.;
February 10—read a second time, partly amended; special order
for 2 o'clock p. m., with pending amendments; February 10, second
reading completed; further amended and ordered to its engrossment
and third reading.

A BILL authorizing the county courts, or tribunals created in lieu
thereof, to provide depositories for public money; requiring the
treasurers of county, district and other funds, and collectors of
state, county and district funds to deposit the same therein; and
making general provision in respect thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of each county, by order of rec-
2 ord, shall designate, in the manner hereinafter provided, a bank, or
3 banks, or trust companies situated in the county and duly incorpo-
4 rated under the laws of this state, or organized under the laws
5 of the United States, as a depository or depositories of public

6 moneys; *provided*, that in any county where no such bank or trust
7 company exists, or where such bank or banks fail, refuse or neg-
8 lect to comply with all the provisions and conditions of this act, the
9 county court shall designate any other convenient bank, or banks,
10 or trust companies incorporated under the laws of the state, or or-
11 ganized under the laws of the United States, located and doing
12 business in the state; and, *provided, further*, that no such deposi-

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13 tory shall have on deposit at any time more than one hundred
14 thousand dollars of public moneys. A depository to be eligible for
15 designation hereunder must be such bank or trust company as is
16 described in this section.

Sec. 2. Not later than June one, one thousand nine hundred
2 and seventeen, and every two years thereafter, the sheriff of every
3 county shall file with the county court, or tribunal in lieu thereof,
4 a statement in writing naming one or more banks or trust compa-
5 nies within his county in which he desires to deposit public funds,
6 and thereupon and within twenty days thereafter the county court
7 shall designate the same county depository or depositories; *pro-*
8 *vided*, said bank, banks or trust companies, comply with all the
9 provisions and requirements of this act. If the banks or trust
10 companies named in said statement filed by the sheriff do not
11 comply with the requirements and provisions of this act, then the
12 county court shall designate any other bank, banks or trust
13 companies within the county as county depository or depositories,
14 when they comply with all the requirements and provisions of this
15 act.

16 If there are no banks or trust companies within the county
17 eligible for county depository or depositories, or if eligible to be
18 designated as such, either decline to be designated, or if designated,
19 fail, refuse or neglect to comply with the requirements and pro-
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20 visions hereof, then the sheriff shall file with the county court a
21-22 statement naming one or more banks or trust companies conven-
23 ient to his county within the state in which he desires to deposit
24 the public funds; thereupon, the county court shall designate the
25 same county depository or depositories, *provided*, said bank, banks,
26 or trust companies comply with all the requirements and provis-
27 ions of this act. If the banks or trust companies named in said
28 statement filed by the sheriff do not comply with the requirements
29 and provisions of this act, then the county court shall designate

30 any other bank, banks or trust companies convenient to the county,
31 and within the state, as county depository or depositories, when
32 they comply with all the requirements and provisions of this act.

33 Risk and expense of making deposits in county depositories
34 located outside of the county seat, shall be borne by the bank, or
35 banks, or trust companies in which the deposits are made.

Sec. 3. If the sheriff shall fail or neglect to file the state-
2 ment provided for by the second section hereof, by the time pro-
3 vided in said section naming eligible county depository or deposi-
4 tories, then the county court shall name some bank, banks or trust
5 companies within the state as county depository or depositories.
6 The depositories named by the county court shall be located in
7 the county, if any therein eligible and willing to comply with the
8 requirements and provisions of this act. When any bank or trust

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9 company has been named by the county court as provided for by
10 this section, and has complied with all the requirements and pro-
11 visions of this act, the court shall designate it a county depository.

12 The county court of any county may be required by mandamus
13 to comply with the requirements of this act, upon the petition of
14 any citizen and taxpayer of the county, or any officer charged with
15 the duty of enforcing compliance with the laws relating to the col-
16 lection and disbursement of public moneys.

Sec. 4. No such designation shall be binding on such county,
2 nor shall any public money be deposited thereunder until the hy-
3 pothecation of the bonds provided for in section seven of this act,
4 or until there is executed by the bank, or banks, or trust companies
5 designated, bond with good and sufficient sureties, to be accepted
6 and approved by the county court, payable to the state of West
7 Virginia, in such sum as the county court shall direct, and which
8 shall not be less than the maximum sum that shall be deposited
9 in the depository at any one time; such bond shall be executed by
10 at least four resident freeholders as sureties; or, by a fidelity or
11 indemnity company authorized to do such business within the state,
12 satisfactory to, and acceptable by the county court, and having not
13 less than one hundred thousand dollars capital; and such bond
14 shall be conditioned for the receipt, safe-keeping and payment over
15 of all money which may be deposited in or come under the custody
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16 of the bank or trust company designated a county depository un-
17 der the provisions hereof, together with the interest thereon at

18 the rate specified by this act; and such bond shall be further condi-
19 tioned for the faithful performance by the bank or trust company
20 so designated, of all the duties imposed by this act upon a deposi-
21 tory of public moneys. An action shall lie on such bond at the in-
22 stance of the county court, or the sheriff, for the recovery of any
23 money deposited in the depository, upon failure or default of the
24 depository to fully and faithfully account for said pay over any
25 and all public moneys deposited by the sheriff, and of all interest
26 earned and accrued thereon as required by this act.

Sec. 5. Such bond shall not be accepted by the county court
2 until it shall have been submitted to the prosecuting attorney, and
3 certified by him to be in due and legal form, and conformable to
4 the provisions of this act, which certificate shall be endorsed there-
5 on and if any bank or trust company designated as aforesaid, fail
6 to execute bond as required hereby, to the satisfaction and accept-
7 ance of the county court, or fail to hypothecate the bonds, as pro-
8 vided in section seven of this act, within thirty days from the time
9 the designation is made, the county court shall designate other de-
10 pository or depositories in the manner hereinbefore provided.

Sec. 6. The bank, banks or trust companies designated in the
2 manner hereinbefore provided, shall, upon the acceptance by the

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3 county court of the bond, or upon the hypothecation of the bonds as
4 provided for herein, be the depository or depositories of public
5 moneys, and remain such for two years, and until the bond of its
6 successor or successors is accepted by the county court; but the
7 county court, at any time it deems the same necessary, may require
8 additional security from a depository in such sum as the court shall
9 by order designate; and if a depository refuse, or neglect, for the
10 period prescribed by the court, to give such additional security, or
11 to comply with the provisions of this act, the court may order the
12 removal of the public moneys therefrom to some other depository,
13 and if no county depository is available at the time, then to some
14 reliable bank or banks or trust companies to be the depository
15 thereof temporarily. Such removal, and all other removals, or-
16 dered by the county court under the provisions of this act, shall
17 be made by order of record upon the check of the county treasurer,
18 countersigned by the county clerk, after ninety days notice to said
19 depository. In event any county depository shall cease to do busi-
20 ness, or shall suspend business, the county treasurer and county
21 court at once shall designate and approve, respectively, another

22 bank as a depository in place of the suspended depository. But, in
23 such event, and pending the designation and approval of another
24 depository (when there is no other approved depository in the
25 county) the treasurer shall deposit public funds coming into his
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26 hands, in some reliable bank or trust company, eligible to be a
30 designated as a depository, temporarily, such bank or trust com-

29 If the money, in case of such removal, be deposited in a bank
28 designated and approved in the manner herein prescribed.

31 pany shall, before the receipt by it of any such money, enter into a
32 bond or hypothecate the bonds as required by this act; but if no
33 bank or trust company be so designated, the money shall be kept
34 in the county treasury, and steps at once taken by the county court
35 to create a new depository under this act.

Sec. 7. The county court may in lieu of the bond provided
2 for by preceding sections, accept as security for money deposited
3 as aforesaid, interest bearing securities of the United States, or a
4 state, county, district or municipal corporation, the indebtedness
27 county depository, as a temporary depository, until a depository is
5 whereof does not exceed five per cent of the assessed valuation; the
6 face value of which shall not be less than the sum specified in sec-
7 tion four of this act as the amount to be named in the bond in lieu
8 of which such bonds are accepted; or they may accept such bonds
9 as partial security to the extent of their face value for the money
10 so deposited, and require bond for the remainder of the full
11 amount specified in said section, to be named in the bond, and in
12 the bond so required, such acceptance of bonds as partial security,
13 and the extent thereof shall be set forth. The hypothecation of

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14 such bonds shall be by proper legal transfer as collateral to pro-
15 tect and indemnify by trust any and all loss in case of any default
16 on the part of the bank in its capacity as depository as aforesaid,
17 and such collateral shall be released only by order of record of
18 the county court when satisfied full and faithful accounting and
19 payment of all moneys has been made under the provisions hereof.
20 The county court shall make ample provision for the safekeeping
21 of such hypothecated bonds, and the interest thereon when paid,
22 shall be turned over to the bank or trust company, so long as it
23 is not in default as aforesaid.

Sec. 8. The treasurer upon receipt of a certified copy of the
2 order of the county court, showing that a depository or deposito-

3 ries have been designated and bond accepted in compliance with
4 the provisions of this act, and naming the depository or deposito-
5 ries shall deposit therein to the credit of the county treasurer, all
6 public money in his possession, except such as may be necessary
7 to meet current demand; and, thereafter, he shall make daily
8 deposits in the public depositories of all public money received
9 by him, except as hereinafter provided, the deposit of such money
10 to be made as early as practicable after the receipt or collection
11 thereof, and such money shall be payable by the depository only on
12 an order issued by the county court, or board of education after
13 said order has been endorsed by the treasurer directing payment
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14 by the depository. If at any time the cash in hands of the treas-
15 urer is not sufficient to meet current demands, he is authorized
16 to withdraw sufficient cash from the depository to meet said cur-
17 rent demands, such withdrawal to be made by check drawn by
18 the treasurer, and countersigned by the county clerk. The said
19 current demands shall not be anticipated more than a week in ad-
20 vance. All moneys due the treasurer are to be drawn from the
21 depository on an order issued by the county court and endorsed
22 by the treasurer. At the end of each month the president and
23 clerk of the county court shall sign proper orders on the treasurer,
24 in his favor, to pay to him the moneys due him. All moneys be-
24-a longing to the state, or any municipality, shall be disbursed from
25 the depository on a check drawn by the county treasurer, payable
26 to the auditor of the state of West Virginia, or to the treasurer
27 of the municipality.

Sec. 9. All money deposited in any depository shall bear in-
2 terest at the rate of three per cent per annum, to be computed on
3 daily balances, and such interest shall be placed to the credit of
4 the county treasurer on the first day of each calendar month, or at
5 any time when the account may be closed. When the interest is
6 credited to the treasurer the depository shall, in writing, notify
7 the clerk of the county court and treasurer each separately, the
8 amount thereof, before noon of the next business day, and all of
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9 such interest shall be credited to the general county fund by the
10 clerk of the county court and treasurer.

Sec. 10. On the first business day of each month a county
2 depository under the provisions of this act shall furnish to the
3 clerk of the county court a written statement, showing the amount

4 on deposit to the credit of the county treasurer at the close of
5 each day of the preceding month, which statement shall be filed
6 and kept in the office of the clerk of the county court, as part of
7 the public records.

Sec. 11. The treasurer shall keep an account with each de-
2 pository showing each deposit and disbursement; the depository
3 upon payment of any order or draft drawn by authority of the
4 county court or board of education on the treasurer, and endorsed
5 by him for payment, or upon payment of any check drawn by the
6 treasurer for the purposes herein authorized, shall cancel the same,
7 showing clearly the payment thereof and the date of payment. The
8 orders or drafts and checks so paid shall be delivered by the de-
9 pository to the treasurer upon his demand, and the orders or
10 drafts shall be by him preserved for settlement with the county
11 court, and the checks shall be filed and preserved as part of the
12 records of his office.

Sec. 12. The term "public moneys," as used in this act, shall
2 include all money which by law the sheriff in his capacity as such,
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3 and as treasurer of the county and districts. is authorized to col-
4 lect, receive and disburse for public purposes, including state,
5 county, districts, school districts, independent school districts and
6 municipalities. The term "county court", shall include all tri-
7 bunals in lieu thereof.

Sec. 13. If any sheriff shall wilfully fail, refuse or neglect
2 to comply with the requirements and provisions hereof, he shall
3 be guilty of a misdemeanor, and upon conviction thereof shall be
4 fined not exceeding five hundred dollars, or confined in the county
5 jail not exceeding six months, or both, and shall forfeit his office.
6 When the sheriff shall have fully complied with all the provisions
7 of this act, he shall not be held personally liable on account of any
8 loss that the county or any district may sustain by reason of the
9 default or failure of any such depository that has given bond ap-
10 proved by the county court.

Sec. 14. It shall be unlawful for any sheriff or member of a
2 county court to demand or receive any gift, reward, token, or
3 thing of value from any county depository, or from any bank or
4 trust company, for naming, designating or accepting it as a coun-
5 ty depository. It shall also be unlawful for any person who is a
6 candidate for the office of sheriff, or member of a county court,
7 either for the nomination, or election to the office after nomina-

8 tion, to demand or receive any gift, reward, token, or thing of
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 9 value from any bank or trust company eligible for designation as
 10 a county depository. Upon conviction for any violation of this
 11 section, the person convicted shall be fined not more than five
 12 hundred dollars or confined in the county jail not exceeding six
 13 months, or both, at the discretion of the court, and in addition
 14 thereto shall forfeit his office.

Sec. 15. The sheriff of the county shall receive, collect and
 2 disburse all school money for the county and the several districts
 3 therein. But, before receiving or collecting any such school money,
 4 he shall give in addition to his bond as collector of the state and
 5 county taxes, a bond with such security to be approved by the
 6 county court or other tribunal in lieu thereof, in a penalty of not
 7 less than twenty thousand nor more than one hundred thousand
 8 dollars, said amount to be fixed by the county court or other tri-
 9 bunal in lieu thereof.

10 Section one hundred and thirty-seven, chapter twenty-seven,
 11 acts one thousand nine hundred and eight, relating to sheriffs'
 12 bond as treasurer for school moneys, in so far as inconsistent
 13 with this section, is hereby repealed.

Sec. 16. All acts or parts of acts inconsistent herewith are
 2 hereby repealed. But this act shall not be effective until July first,
 3 one thousand nine hundred and seventeen.

Senate Bill No. 183

AN ACT to amend and re-enact sections six, seven, eight, fourteen,
 fifteen, twenty-one, twenty-two, twenty-three, twenty-seven, thirty-
 four, thirty-five, thirty-eight and thirty-nine of chapter
 one hundred and forty-five of the acts of the legislature of West
 Virginia of one thousand nine hundred and one, entitled "an act
 to amend and re-enact and reduce into one act the several acts in-
 corporating the town of Mannington, in the county of Marion,
 defining the powers thereof and describing the limits of said
 town, and incorporating the city of Mannington in said Marion
 county;" and to amend and re-enact sections nineteen and thirty-
 three of said chapter one hundred and forty-five of the acts of
 the legislature of one thousand nine hundred and one, as

amended and re-enacted by chapter ten of the acts of the legislature of said state, of the year one thousand nine hundred and five, entitled, "An act to amend and re-enact sections eleven, nineteen and thirty-three of chapter one hundred and forty-five of the acts of the legislature of one thousand nine hundred and one, entitled "An act to amend and re-enact and reduce into one act the several acts incorporating the town of Mannington, in the county of Marion, defining the powers thereof, and describing the limits of said town, and incorporating the city of Mannington in Marion county."

Be it enacted by the Legislature of West Virginia:

That sections six, seven, eight, fourteen, fifteen, twenty-one, twenty-two, twenty-three, twenty-seven, thirty-four, thirty-five, thirty-eight and thirty-nine of chapter one hundred and forty-five of the acts of the legislature of one thousand nine hundred and one, and sections nineteen and thirty-three of said chapter one hundred and forty-five of the acts of the legislature of one thousand nine hundred and one, as amended and re-enacted by chapter ten of the acts of the legislature of one thousand nine hundred and five, be amended and re-enacted so as to read as follows:

Section 6. The mayor and councilmen at the time of their election shall be free holders in said city, and shall be entitled to vote for the members of the common council of said city as residents and legal voters therein.

Sec. 7. There shall be a chief of police, who shall be *ex-officio* collector, a city attorney, street commissioner, superintendent of water works, city physician, assessor, three auditors, city surveyor and clerk, who at the time of their election or appointment shall be entitled to vote for the members of its common council. The city attorney, city physician and city surveyor shall be appointed by the common council, to hold their respective offices for the term of one year from the first day in April, or until their successors shall have been appointed and qualified.

Sec. 8. On the second Monday in March, one thousand nine hundred and fifteen, and on said day of every succeeding year, there shall be elected by the qualified voters of said city a mayor, chief of police, who shall be *ex-officio* collector, and three auditors, who shall hold their respective offices for one year and until their successors shall be elected and qualified.

Sec. 14. Whenever a vacancy shall occur from any cause

2 in the office of mayor, councilmen, chief of police and *ex-officio*
3 collector, street commissioner, superintendent of water works or
4 city assessor, the council for the time being shall, by a vote of the
5 majority of those present, fill the vacancy until the next election,
6 at which time a successor to fill the unexpired term of such office
7 shall be elected by the people, or be appointed by the council.

Sec. 15. The street commissioner, superintendent of wa-
2 ter works, city attorney, city physician, city surveyor, city assessor,
3 and clerk shall be appointed by the council. The council shall also
4 have authority to provide by ordinance for the appointment of
5 such other officers as shall be necessary and proper to carry into
6 full force any authority, power, capacity, or jurisdiction which is
7 or shall be vested in the said city, or in the council, or in the
8 mayor, or any other officer or body of officers thereof; and to
9 grant to the officers so appointed the power necessary or proper
10 for the purpose above mentioned. The council shall, by ordi-
11 nance, define the duties of all officers so appointed or elected as
12 aforesaid, and allow them reasonable compensation, which shall
13 be by monthly or annual salaries, and not otherwise; and which
14 compensation shall not be increased or diminished during their
15 term of office and shall require and take from all of such officers,
16 whether elected or appointed, whose duty it shall be to receive
17 its funds, assets or property, or have charge of the same, such
18 bonds, obligations or other writings as they shall deem necessary
19 or proper to insure the faithful performance of their several du-
20 ties. All officers so appointed or elected may be removed from
21 office for malfeasance, non-feasance, or misfeasance, by the coun-
22 cil; and, unless their term of office be otherwise fixed by ordinance,
23 they shall be considered as holding their respective offices at the
24 pleasure of the council. The chief of police shall have all powers,
25 rights and privileges, within the corporate limits of said city, in
26 regard to the arrest of persons, the collections of claims, the execu-
27 tion and return of processes that can be legally exercised by a con-
28 stable of a district within the same, and he and his sureties shall
29 be liable to all fines, penalties and forfeitures that a constable of
30 a district is legally liable to for any failure or dereliction in his said
31 office, to be recovered in the same manner and in the same courts
32 that the said fines, penalties and forfeitures are now recovered
33 against such district constable. It shall be the duty of the chief
34 of police, as *ex-officio* collector to collect city taxes, licenses, lev-
35 ies, assessments, water rents and deposits, and such other city

36 claims as are placed in his hands for collection by the council, and
37 may distrain and sell for city taxes; and he shall have, in all other
38 respects, the same power as a sheriff to enforce the payment and
39 collection thereof. All officers appointed by the council must be
40 residents of the city and qualified voters at the time of their ap-
41 pointment.

Sec. 19. If any person elected to the office of mayor, coun-
2 cilman, chief of police and *ex-officio* collector, or auditor shall not
3 be eligible to such office under the provisions of this act, or
4 shall fail to qualify as herein required, the council for the time
5 being shall declare his said office vacant and shall proceed to fill
6 the vacancy as required by this act; and the council shall have
7 authority to remove any of its members for cause; *provided*, five-
8 sixths of all the members of which the council shall then consist
9 concur in such removal; but the cause of such removal shall be
10 specified and recorded in the minutes.

Sec. 21. The clerk shall keep the journal of the proceedings of
2-3 the council and have charge of and preserve the records, papers,
4 contracts, and other documents belonging to the city; shall attend
5 all sessions of the police court and keep an accurate record of its
6 proceedings, and all judgments shall be entered by him within
7 twenty-four hours after the same are rendered. He shall also per-
8 form such other duties pertaining to the fiscal affairs of the city, or
9 otherwise, as may be required of him by this act, or by council.

Sec. 22. The presence of a majority of the council shall be
2 necessary to make a quorum for the transaction of business. And
3 in the absence from the city, or in the case of sickness or inability
4 of the mayor, or during any vacancy in the office of mayor, some
5 member of council appointed so to do, annually, by said council
6 at its first regular or called meeting, shall perform the duties of
7 mayor which pertain to him as the chief executive of said city, and
8 be vested with all the power necessary for the performance of such
9 duties.

Sec. 23. The council shall cause to be kept by the clerk in
2 a well-bound book, to be called the "minute-book", an accurate rec-
3 ord of all its proceedings, ordinances, acts, orders and resolutions;
4 and in another, to be called "ordinance book", accurate copies of
5 all general ordinances adopted by the council, both of which shall
6 be fully indexed and open to the inspection of any one required
7 to pay taxes to the city, or who may be otherwise interested. All
8 oaths and bonds of officers in the city, and all papers of the council,

9 shall be endorsed, filed and securely kept by the clerk. The bond
10 of officers shall be recorded in a well-bound book to be called the
11 "record of bonds." The clerk shall perform all such other duties
12 as may by ordinance of the council be prescribed. All printed
13 copies of such ordinances purporting to be published under au-
14 thority of the council, and transcripts of such ordinances, acts or-
15 ders and resolutions, certified by the clerk under the seal of the
16 city, shall be deemed *prima facie* correct, when sought to be used in
17 any court or before any justice.

Sec. 33. The council of said city shall have the power with-
2 in said city to lay off, vacate, open, close, alter, widen, extend,
3 curb, grade, pave and keep in good repair the roads, streets, al-
4 leys, sidewalks, crosswalks, drains and gutters therein, for the
5 public use, and to improve and light the same, and have them kept
6 free from obstruction on or over them; to regulate and determine
7 the width of all pavements, sidewalks, streets and public alleys,
8 and to order sidewalks, footways, and gutters to be curbed and
9 paved and kept in good order, free and clean by the owners or oc-
10 cupants thereof, or the real property next adjacent thereto; *pro-*
11 *vided, however,* that nothing in this act shall be construed as to re-
12 quire the city of Mannington to build or keep in repair any bridge
13 or bridges within said corporation owned by the county, and the
14 officers of the said city, in preservation of law and order, shall
15 have jurisdiction over said bridge or bridges within said corpora-
16 tion; to establish and regulate markets, prescribe the time of hold-
17 ing the same, and what articles only shall be sold in said market,
18 and prevent the forestalling of such markets; to prevent injury or
19 annoyances to the public or to individuals from anything danger-
20 ous, offensive or unwholesome; to prohibit or regulate slaughter
21 houses, tan houses and soap factories within the city limits; or the
22 exercise of any unhealthful or offensive business, trade or employ-
23 ment; to abate all nuisances within the city limits; or to require
24 and compel the abatement or removal thereof at the expense of the
25 owner or occupant of the grounds on which they are placed or
26 found; to cause to be filled up or raised or drained by or at the ex-
27 pense of the owner, any city lot or tract of land covered or subject
28 to be covered by stagnant water; to prevent horses, hogs, cattle,
29 sheep and other animals and fowls, of all kinds, from going or be-
29-a ing at large in said city; and as one means of prevention, to pro-
29-b vide for impounding and confining such animals and fowls, and
29-c upon failing to reclaim, for the sale thereof; to protect places of

29-*d* Divine worship, and preserve order in and about the premises
29-*e* where and when such worship is held; to prohibit any theatrical
30 or any performance, show or exhibition which the council may deem
31 injurious to the morals and good order of the city; to regulate the
32 keeping of gunpowder, nitro-glycerine and other inflammable or
33 dangerous substances, and prohibit the storing or keeping of the
34 same in large or unsafe quantities within said city; to provide and
35 regulate the building of houses and other structures, and determine
36 the distance that they shall be from any street or alley, and the
37 material of which they shall be composed; to cause the removal of
38 unsafe walls or buildings; to provide for the making and main-
39 taining of all division fences by the owners of adjacent premises,
40 and the drainage of lots or other parcels of land by proper drains
41 and ditches by or at the expense of the owner or occupant thereof;
42 to make regulations with respect to erecting and locating of all tele-
43 phone, telegraph, electric light or other poles within said city, and
44 the extension of any wires, lines and poles by any individual or
45 corporation; to make regulations for guarding against danger or
46 damage from fire; to organize one or more fire companies and
47 provide necessary apparatus, tools, implements, engines, or any of
48 them for their use, and, in their discretion, to organize and main-
49 tain a paid fire department, and to prescribe rules and regulations
50 for the government of said fire department; to protect the per-
51 sons and property of those being or residing within the city; to
52 preserve peace and good order in said city; and for this purpose
53 to appoint the necessary police force, temporary or permanent, to
54 assist the chief of police in the discharge of his duties, and to
55 prescribe rules and regulations for the government of the police
56 department of the said city; to preserve the health of the in-
57 habitants of said city, and for this purpose may establish
58 a board of health, and prescribe rules and regulations
59 for the government of said board, and to prevent the
60 spread of contagious diseases and sickness in said city;
61 and, to this end, said council may enact, prescribe and
62 enforce strict rules of isolation and quarantine of all persons af-
63 flicted with contagious or infectious diseases, as well as such per-
64 sons as may be suspected of being afflicted with such diseases, and to
65 erect and maintain necessary building or buildings for the safe
66 keeping and custody of such persons suffering from contagious
67 diseases; to authorize or prohibit the erection of gas works or elec-
68 tric light works or water works in or near said city; to prevent

69 injury of such work, or the pollution of any gas or water used or
70 intended to be used by the public, or any individual; to provide for
71 and regulate the weighing or measuring of hay, coal, lumber and
72 other articles sold or kept or offered for sale within said city, and
73 to establish rates and charges for said weighing or measuring; to
74 regulate the transportation thereof through the streets of said
75 city; to regulate the running or speed of engines and cars within
76 the city, and may prevent unnecessary using or blowing of any
77 whistles on said engines or cars; to prevent the firing of guns,
78 crackers, or any combination of gunpowder or other combustibles
79 or dangerous materials, and the throwing of fire balls within said
80 city; to prevent the riding or driving of horses and animals, auto-
81 mobiles and bicycles at an improper or dangerous rate of speed
82 within the city limits; to prevent or suppress gaming and gam-
83 bling, in any form, or the operation of gaming and gambling
84 devices, within said city limits; to prevent or suppress vagrancy,
85 burglary and theft; to punish for assaults and batteries; to pro-
86 hibit the keeping of, or loitering, or visiting houses of ill-fame,
87 or loitering in saloons or on the streets or highways; to prevent
88 lewd or lascivious conduct and the making, sale of or exhibition of
89 indecent pictures or other representations; to suppress or prevent
90 the desecration of the Sabbath day, profane swearing and obscene
91 language; to prohibit the exhibition of moving pictures of all
92 kinds on the Sabbath day, whether an admission fee is charged
93 therefor or not; to prohibit the illegal sale of all intoxicating
94 liquors, mixtures, and preparations, beer, ale, wine or drinks of
95 like nature; to suppress or prevent the carrying of any dangerous
96 or deadly weapons within said city; to create by ordinances such
97 committees and boards and delegate such authority thereto as may
98 be deemed necessary or advisable; to provide for the annual assess-
99 ments of taxable persons or property in their city, including dogs
100 kept in said city, and regulate their running at large; and to pro-
101 vide revenues for the city for municipal purposes, and to appro-
102 priate such revenues to its expenses; to take, acquire and hold, by
103 condemnation, or purchase or donation, any and all real estate
104 necessary for public purposes within said city, or adjacent there-
105 to; *provided*, that said city shall at no time hold more than fifty
106 (50) acres without the corporate limits of said city, nor more
107 than ten (10) acres within the limits of said city; nor shall said
108 city authorities have the right to acquire by purchase, condemna-
109 tion or gifts, any land more than three (3) miles distant from the

110 corporation limits of said city; the common council shall have
111 power and authority to sell and convey any of the property of
112 the said city, either real, personal or mixed, for a proper consider-
113 ation, except that no part of the water works plant or system
114 owned by said city shall be sold and conveyed until the question
115 of such sale and conveyance shall have first been submitted to the
116 qualified voters of said city, at a special or general city election
117 held at the usual voting places of said city for that purpose, and
118 shall have been approved by at least three-fifths of the legal voters
119 of said city, cast for and against the same, at the said election, no-
120 tice of which said election shall be published in at least one (1)
121 newspaper of general circulation in the said city for two weeks
122 consecutively, and said election shall be held within ten days after
123 the expiration of the publication of said notice aforesaid; and, in
124 such election, the conduct and returns thereof shall be as provided
125 by law for all other elections held within said city for officers and
126 other purposes; said council shall also have the power to adopt
127 rules for the transaction of business and for the government and
128 regulation of its own body; to construct and maintain public sew-
129 ers and laterals and may, in its discretion, assess upon and collect
130 from the property benefited thereby such part of the expenses
131 thereof as shall be deemed equitable and just by the said council;
132 to regulate and control all conveyances for public use and hire
133 in said city; to control the construction and repairs of all houses,
134 bridges, culverts and sewers, the opening and construction of
135 ditches, drains, sewers and gutters, to widen and deepen and clean
136 the same of stagnant water and filth, and to determine at whose
137 expense the same shall be done; to provide for shade trees, and the
138 proper protection of the same; to define the powers, prescribe the
139 duties and fix the term of service and compensation of all officers
140 appointed by said council; to require and take from them bonds,
141 with such sureties and in such penalties as the council may de-
142 termine for the true and faithful discharge of their duties, and
143 remove them at their pleasure (all bonds taken by the council shall
144 be made payable to the city by its corporate name); to grant and
145 regulate all franchises in, upon, over and under the streets, al-
146 leys and public ways of said city, under such restrictions as shall
147 be provided for by ordinance; but no exclusive franchise shall be
148 granted by said council to any individual or corporation; and gen-
149 erally to take such measures as may be deemed necessary or ad-
150 visable to protect the property, public and private, within

151 the city; to prescribe and maintain peace, quiet and good
152 order therein, and to preserve and promote the health, safety,
153 comfort and well being of the inhabitants thereof; and for all of
154 which purposes, except that of taxation, the council shall have ju-
155 risdiction for one mile beyond the corporate limits of said city.

Sec. 34. The council shall have authority to pass all ordi-
2 nances (not repugnant to the constitution and laws of the United
3 States and of this state) which shall be necessary or proper to carry
4 into full effect and power any authority, capacity and jurisdiction
5 which is or shall be granted or vested in the said city, or in the
6 council, or in any officer or body of officers of said city, and to en-
7 force any or all ordinances by reasonable fines and penalties, and by
8 imprisoning the offender or offenders, and upon failure to pay any
9 fine or penalty imposed by compelling them to labor without com-
10 pensation on any of the public works or improvements undertaken,
11 or to be undertaken, by said city, or to labor at any work which the
12 city may lawfully employ labor upon, at such rate per diem as the
13 council may fix, but not at a less rate than is fixed by said city coun-
14 cil for like labor from other employes of said city, until any fine or
15 fines imposed upon any such offender or offenders by said city shall
16 have been fully paid and discharged, after deducting charges of
17 support while in the custody of the officers of said city; and all or-
18 dinances relating to licenses, and the sale of spirituous liquors, malt
19 liquors or wines, and the keeping of, or dwelling or loitering in
20 houses of ill fame, and such police regulations as may be ordained of
21 said city, and the right and power to enforce the same shall
22 extend one mile in the state of West Virginia beyond the cor-
23 porate limits of the said city; *provided, however,* that no fine
24 shall be imposed exceeding two hundred dollars, and that no
25 person shall be imprisoned or compelled to labor, as aforesaid,
26 for more than thirty days for any one offense. In all cases where a
27 fine is imposed for an amount exceeding ten dollars, or a person be
28 imprisoned or compelled to labor as aforesaid for a term greater
29 than ten days, an appeal may be taken from any such decision, upon
30 the same terms and conditions that appeals are taken from the
31 judgment of a justice of this state. Such fines and penalties shall
32 be imposed and recovered, and such imprisonments inflicted and
33 enforced by and under the judgment of the mayor of the city, or in
34 case of his absence or inability to act, by a member of the council,
35 appointed by the council for that purpose, and as required by sec-
36 tion twenty-two of this act.

37 In addition to the powers above enumerated, the said city
38 council shall have power to provide, contract for and construct an
39 adequate sewerage system for said city; and have power to improve
40 amplify and expand the water works of, and to contract for an
41 adequate supply of pure, healthful water for said city, and to do all
42 things necessary to adequately supply said city with pure, whole-
43 some water; and there is hereby granted to said city the right and
44 privilege, under the direction and supervision of its council, to
45 furnish water to consumers residing in territory contiguous to but
46 outside of the corporate limits of said city, and within one mile
47 thereof; *provided*, any water so furnished is furnished upon the
48 same terms and conditions that it is furnished to consumers within
49 said city, and through mains and lines connected to the mains and
50 lines within said city; and the same rights, privileges and powers
51 are hereby granted to said city to collect water rents and deposits
52 for all water so furnished to consumers residing without said city
53 as it now has to collect water rents and deposits within its corporate
54 limits.

Sec. 35. That said city council shall have, and are hereby
2 granted, exclusive control of all licenses required by law (*provided*,
3 *however*, that except when the sale of intoxicating liquor is pro-
4 hibited by the constitution or statute of this state, the council shall
5 cause to be submitted to the voters of the city at the annual election
6 in each year the question whether a license for the sale of spirituous
7 liquors, vinous and malt liquors, shall be granted within the city.
8 In case a majority of votes cast at said election are against licenses
9 no such licenses shall be granted during that year); and all such
10 other licenses it may see fit to impose and require within the cor-
11 porate limits of said city, not contrary to the constitution of the
12 state of West Virginia. And in case of any such license granted by
13 said city council, it shall not be necessary for the person or persons,
14 or corporation, holding the same to apply for, obtain or hold any
15 state license or other additional license from the county court of
16 Marion county, West Virginia, for the carrying on or conducting
17 the business so licensed by said city council. But the person, per-
18 sons or corporations so licensed by said city council shall not be
19 exempt from paying the usual state license tax required by law.
20 When any such license as hereinbefore mentioned is granted by said
21 city council, said council may impose a tax thereon for the use of
22 the city in conformity with the requirements of the state law, and
23 shall also require bond payable to said city in its corporate name,

24 with good security from the person, persons or corporations so
25 licensed, said bond to be approved by said council in the same sum
26 and penalty as required by the state law. The said city council
27 shall, upon granting any such license required by law, within ten
28 days thereafter, furnish to the clerk of the county court, the
29 prosecuting attorney, and the assessor of Marion county, duly certi-
30 fied copies, under the corporate seal of the said city, of the order
31 granting every such license, whereupon such assessor shall cause
32 the sheriff of Marion county to collect the state tax thereon, in the
33 same manner as if said license was granted by the county court of
34 Marion county, West Virginia. And said city council may revoke
35 such license at any time the condition of said bond be broken
36 within ten days' previous notice to the person, persons or corpora-
37 tion holding the same. And suits may be prosecuted and main-
38 tained on such bond as prescribed in section twenty-two of chapter
39 thirty-two of the code of West Virginia by the same person, in the
40 same manner and to the same extent as upon the bonds mentioned
41 in said section, and all the provisions of said section in relation to
42 the bonds therein named and mentioned shall be applicable to the
43 bonds required by this section.

44 No license to sell brandy, whiskey, rum, gin, porter, ale, beer,
45 or any other spirituous, vinous, or malt liquor or drink of like
46 nature, shall be granted without the affirmative vote of at least a
47 majority of the councilmen elected in said city entered of record,
48 in each case.

49 The council shall have, and are hereby granted authority to
50 license and tax owners and keepers of horses, hacks, carts, wagons,
51 drays, automobiles, bicycles, motor-cycles and every description of
52 wheeled vehicles kept within the said city, and to subject the same
53 to such regulations as the interest, convenience and public safety
54 of the inhabitants of said city may require; to require a city license
55 for the selling and handling of soft drinks of all kinds, and to im-
56 pose a tax thereon for the use of the city, but the granting or refus-
57 ing such soft drink license shall be discretionary with the council;
58 to license and tax the owners and keepers of dogs within the city,
59 and to provide for the killing of all dogs, the keeping of which is
60 not so licensed; to license and tax hawkers, peddlers, book-agents,
61 and canvassers of all kinds within said city, and persons who tem-
62 porarily station themselves upon a street to sell or exhibit articles;
63 and to require a city license for persons conducting and carrying on

64 any business or vocation for which the state may now or hereafter
65 require a license.

Sec. 38. It shall be the duty of the assessor to make an
2 assessment of the property within the city subject to taxation
3 substantially in the manner and form in which the assessments
4 are made by the assessor of the county, and return the same to
5 council on or before the first day of June of each year, and for
6 this purpose he shall have all the powers conferred by law on
7 county assessors. He shall list the number of dogs in the city, and
8 the names of persons owning the same, which list shall be re-
9 turned to the council (see chapter forty-seven, section forty-one,
10 code of West Virginia). In order to aid the said council in ascer-
11 taining the property and tithables subject to taxation by said
12 city, the assessor of said city shall have access to all books and
13 public records of Marion county, without expense to said city, or
14 assessor, and he also shall have the same power and be subject
15 to the same penalties in ascertaining and assessing the property
16 and subjects of taxation in said city as are granted and imposed
17 upon the county assessors throughout the state by general law, and
18 the council shall also have authority to prescribe by ordinance
19 such other rules and regulations as may be necessary to enable and
20 require such assessor to ascertain and properly assess all property
21 and tithables liable to be taxed by said city, so that such assess-
22 ment and taxation shall be uniform, and to enforce such ordinance
23 by reasonable fines and penalties. And the said city assessor,
24 in making his valuation for assessments, shall make the same valua-
25 tion for both real and personal property as the assessor for said
26 county, for the same assessment year, assessed said prop-
27 erty.

28 The council upon the return of the assessor shall cause the
29 assessor's books to be correctly copied by the clerk into two well
30 bound books to be provided for the purpose and the taxes ex-
31 tended in each book, one of which shall be delivered to the city
32 collector, taking his receipt therefor, as well as for the taxes
33 therein contained.

34 It shall be the duty of the chief of police and *ex officio* col-
35 lector when the extended copies are completed, to receive one copy
36 thereof, receipting to the council for the same, and for the taxes
37 therein extended; and it shall be his duty to collect from the
38 parties the entire amount of the taxes with which they are therein

39 severally charged, from and after the first day of September of
40 each year, until the last day of December of each year; and he
41 shall, in said book, write the word "paid" opposite the name of
42 the person so paying, and shall also receipt to such taxpayer for
43 the tax so paid. He shall also receive such other moneys of the
44 city as he is authorized by this chapter to receive, and all moneys
45 ordered paid him by the council, giving receipts therefor to the
46 parties paying, and shall keep an accurate account of the same; and
47 his books shall at all times be open for inspection to any taxpayer
48 of the city; and he shall produce said books to said council for
49 inspection at any meeting thereof upon order of the council. He
50 shall pay out the moneys in his hands upon the orders of the
51 council signed by the mayor.

52 He shall on or before the tenth day of January of each year
53 present to the council a full, complete and detailed statement of all
54 moneys with which he is chargeable, or that have been received by
55 him up to the first day of January of that year, and shall at the
56 same time, in like manner, furnish a statement of all disburse-
57 ments made by him during such previous year, with vouchers
58 evidencing the same. He shall, upon the order of the council at
59 any time, submit a statement of the amount with which he is
60 chargeable, and his collections and disbursements. He shall re-
61 ceive all taxes upon licenses, and receipt to the party paying the
62 same, by the endorsement upon the permit granted by order of the
63 council, which permit shall be furnished him by the clerk, and
64 charge himself with the amount so received, and report to the
65 council at its next regular meeting thereafter the amount so re-
66 ceived by him.

67 He shall, upon the expiration of his term of office, turn over
68 to the council all moneys, books and other property in his
69 possession belonging to said city; and shall, before entering upon
70 the duties of his office, execute a bond with good security pay-
71 able to the city of Mannington, in the penalty of not less than
72 ten thousand dollars, conditioned for the faithful performance of
73 the duties of his office, and for the accounting for and paying as
74 required by law all money which may come into his hands by
75 virtue of his office. He shall be chargeable with all city taxes,
76 levies and assessments and money of the city that may come into
77 his hands, and shall account therefor.

78 The said chief of police and *ex-officio* collector shall receive
79 for his services as chief of police and *ex-officio* collector such
80 salary as may be fixed by council from term to term; but said
81 salary shall for all said services in no event exceed the sum of
82 ninety dollars per month.

Senate Bill No. 199

AN ACT to amend and re-enact chapter fifteen of the acts of one thousand nine hundred and five, incorporating the city of Williamson.

Be it enacted by the Legislature of West Virginia:

That chapter fifteen of the acts of the legislature of one thousand nine hundred and five, incorporating the city of Williamson, be amended and re-enacted to read as follows:

The City of Williamson.

Section 1. That the inhabitants of that portion of Mingo
2 county, in the state of West Virginia, included in the boundary
3 described in section two of this act, be and they are hereby made
4 a municipal corporation by the name of "The City of Williamson,"
5 by which name they shall have perpetual succession and a common
6 seal, and by which name they may sue and be sued, plead and be im-
7 pleaded, contract and be contracted with, and purchase, otherwise
8 acquire and hold real estate and personal property needed in the
9 discharge of the functions of government conferred by this charter.

Boundaries.

Sec. 2. The corporate boundaries of the said city shall be as
2 follows, that is to say: Beginning at the mouth of Sycamore
3 creek; thence up said creek to the first left hand fork thereof;
4 thence with the said left hand fork to the top of the ridge; thence
5 up said ridge to the main ridge dividing the waters of Tug river
6 and Buffalo creek, and with the latter ridge to a point on the di-
7 viding lines of the lands of the Williamson Mining and Manufac-
8 turing Company and Thomas Stepp's estate; thence westward with
9 said dividing lines to the lands of V. A. Williamson; thence with
10 the lines dividing the lands of said V. A. Williamson and Thomas

11 Stepp's estate to Tug river; thence up Tug river with the center
12 thereof to the place of beginning.

Municipal Authorities.

Sec. 3. The municipal authorities of the said city shall consist of five commissioners, who, together, shall form the board of commissioners, and otherwise be known as the commission. Said commissioners shall be elected by the voters of the city, except as hereinafter provided. The five persons receiving the highest number of votes cast for the office of commissioner shall, subject to the provisions mentioned below, be declared elected to that office, provided, nevertheless, that not more than three persons from the same political party may be so elected. One of the said commissioners shall serve as mayor and one clerk as hereinafter provided.

Exercise of Corporate Powers.

Sec. 4. All the corporate powers and functions, pertaining to the said city shall, except as otherwise provided herein, be exercised by its commission, or under its authority, in the corporate name of the city.

Subordinate Officers.

Sec. 5. The commission shall appoint an attorney, an assessor, a treasurer, a collector and a chief of police and other officers for the city.

Eligibility of Officers.

Sec. 6. No person shall be eligible to the office of commissioner unless at the time of his election he is legally entitled to vote in the city election for member of the commission, and was for the preceding year assessed with taxes upon real or personal property within the said city of the assessed value of two hundred dollars, and shall actually have paid the taxes so assessed. And no person shall be eligible to any subordinate office under said city, who is not at the time of his election or appointment entitled to vote for members of the commission. No person holding an elective office under the state or county governments shall be eligible to appointment to the office of commissioner.

Powers, Duties and Compensation of Officers.

Sec. 7. The powers, duties and compensation of all officers

2 shall be established by ordinance, subject to the limitations herein
3 prescribed. But the compensation pertaining to any office shall not
4 be increased or diminished so as to effect any officer subsequent to
5 his election or appointment and during the term for which he was
6 elected or appointed.

Vacancies in Office.

Sec. 8. Whenever a vacancy shall occur from any cause in the
2 office of mayor or clerk, the commission shall fill the same by elec-
3 tion from their own body by a *viva voce* vote.

Who Are Voters.

Sec. 9. Every person who is a *bona fide* resident of the city,
2 and who is a qualified voter under the constitution and laws of
3 this state, shall be entitled to vote at any city election. But no
4 person shall be deemed a resident of such city by reason of being
5 stationed therein for any temporary purpose.

Elections and Appointments.

Sec. 10. It shall be the duty of the governor, on or before
2 the first Thursday in June, one thousand nine hundred and fifteen,
3 to appoint for said city five commissioners, not more than three of
4 whom to be selected from the same political party and having the
5 qualifications herein prescribed, whose term of office shall begin
6 on the first day of July, one thousand nine hundred and fifteen, and
7 continue until June thirty, one thousand nine hundred and seven-
8 teen, and until their successors are elected and qualified as pre-
9 scribed by law.

10 The first election hereunder shall be held on the first Thurs-
11 day in June, one thousand nine hundred and seventeen, at which
12 time a full board of commissioners shall be elected. The term of
13 office of the commissioners so elected shall continue for two years
14 thereafter and until their successors are elected and qualified. The
15 term of office of the commissioners elected at the election held on
16 the first Thursday in June, one thousand nine hundred and seven-
17 teen, and at all succeeding elections, shall begin on the first day of
18 July next ensuing after such election and shall be for two years and
19 until their successors are elected and qualified unless they are
20 sooner removed in the manner provided by law.

21 All appointive officers shall hold their office during the pleas-
22 ure of the commission.

23 The commission shall hold a regular or special session on the
24 first Monday in the month preceding an election, at which meeting
25 it shall appoint three qualified persons to act as commissioners of
26 each voting precinct in the city, two qualified persons to act as
27 clerks and two qualified persons to act as challengers, to hold the
28 election at such precincts. Said commissioners, clerks and chal-
29 lengers shall be selected and appointed by the commission from
30 the two leading political parties in the state; one from each party,
31 except in the case of commissioners, of which not more than two
32 thereof shall be chosen from the same political party. The com-
33 missioners constituting a majority of the commission, and being
34 of one of the two leading political parties, shall select two com-
35 missioners for each voting precinct, and the commissioner or com-
36 missioners constituting the minority of said commission and being
37 of the other leading political party shall select a commissioner from
38 the last named political party so represented. And, in like man-
39 ner, the clerks and challengers shall be selected one each from the
40 two leading political parties.

Nominating Candidates.

Sec. 11. The commission may also, by ordinance, make pro-
2 vision as to the manner of nominating candidates for offices to be
3 filled by the voters of the city, not in conflict with the laws of the
4 state with reference to the nomination of candidates in city elec-
5 tions and not in conflict with other provisions of this act.

6 Any political party may nominate, for the office of commis-
7 sioner, not more than three persons, certificates of such nomina-
8 tions to be filed with the clerk at least twenty days prior to the
9 day of the election.

10 Two ballot commissioners shall be appointed by the commis-
11 sion to be designated by the membership from the two leading
12 political parties represented by the commission, respectively. The
13 mayor shall be ex-officio member of the board of ballot commis-
14 sioners, and as such the chairman thereof. The duties of the ballot
15 commissioners shall, in the city election, conform as nearly as may
16 be to the duties of ballot commissioners acting in a general election
17 for state and other offices.

18 The election shall be held, conducted and result thereof ascer-
19 tained, certified, returned and determined under the constitution
20 and general laws of the state governing municipal elections, and
21 shall conform as nearly as practicable to such laws, except as other-

22 wise provided herein. Contested elections shall be heard and de-
23 cided by the commission and the proceedings thereon shall conform
24 as nearly as may be to similar proceedings in the case of county
25 and district officers. The commission shall be the judge of the
26 election returns and qualifications of its own members. Any can-
27 didate shall, however, have the right of appeal to the circuit court
28 of Mingo county from the decision of the said commission upon
29 a matter of recount or from the result of a contest in the matter
30 of election heard by said commission. The candidate, in order to
31 secure such appeal, shall file before the said board a petition pray-
32 ing for such appeal and a bond conditioned to pay costs in a pen-
33 alty not to exceed two hundred dollars. Upon the filing of such
34 petition and bond it shall be the duty of the commission to grant
35 the appeal. If the commission shall omit so to do, then the judge
36 of the said circuit court shall award such appeal upon condition
37 that the applicant shall give bond in the penalty of two hundred
38 dollars. When the appeal is perfected in the circuit court then
39 the said matter shall be heard *de novo* by the judge of the said
40 court, who shall determine the rights of the parties and award
41 judgment accordingly and an appeal may be taken from the deci-
42 sion of the judge of the said circuit court to the supreme court of
43 appeals of this state, if the latter court, or one of the judges there-
44 of in the vacation of the court, shall be of opinion that there is
45 error in the judgment of the circuit court.

46 In case two or more persons receive an equal number of votes
47 for the office of commissioner and if necessary to the election of
48 a commissioner, it shall then be the duty of the commission to
49 decide by lot which of the candidates shall be declared elected and
50 the result so obtained by lot shall be entered of record.

51 In event there shall be a vacancy in the office of commissioner,
52 the remaining commissioners shall appoint a suitable and qualified
53 person as commissioner to fill such vacancy and such appointee to
54 be of the same political party as was the commissioner whose place
55 the said appointee is designated to fill.

Qualifications of Officers.

Sec. 12. Every person elected or appointed to an office in
2 such city shall within twenty days after his election or appoint-
3 ment and before entering upon the duties of his office, take and
4 subscribe the oath of office prescribed by law in the case of district

5 officers, which may be taken before the mayor of such city or before
6 any person authorized by law to administer oaths; and the cer-
7 tificate of the officer administering the oath shall be filed with the
8 clerk of the city.

Powers and Duties of Appointed Officers.

Sec. 13. The commission shall prescribe the powers and define
2 the duties of all officers appointed, except so far as the same are by
3 this act defined; shall fix their compensation, subject to limitation
4 herein set forth, and may require and take from them, respectively,
5 bonds payable to the city in its corporate name with such sureties,
6 and in such penalties, as may be deemed proper, conditioned for the
7 faithful performance of their duties and otherwise as required by
8 law.

Removal of Officers.

Sec. 14. The commission shall have the authority to remove
2 from office any elected officer of the city, for misconduct or neglect
3 of duty, by an affirmative vote of three-fourths of the members of
4 the commission, but only after reasonable notice to such officer, and
5 a hearing of the charges preferred.

Meeting of the Commission.

Sec. 15. The commission shall be presided over at its meet-
2 ings by the mayor or in his absence by a mayor *pro tem* to be ap-
3 pointed by the commissioners then present. A majority of the
4 commissioners shall be necessary to form a quorum for the trans-
5 action of business.

Votes for Members.

Sec. 16. The clerk shall have a vote as a member of the com-
2 mission. The mayor shall have a vote only in case of a tie, and in
3 no case shall the presiding officer have but one vote. No member
4 of the commission shall vote upon or take part in the consideration
5 of any proposition in which he is or may be interested otherwise
6 than as a resident of said city.

Bonds.

Sec. 17. The commission shall require and take from all
2 officers, whose duty it shall be to receive funds, assets or property

3 belonging to said city, or having charge of the same, such bonds,
4 obligations or other writings, as may be deemed necessary and
5 proper to secure the faithful performance of their several duties.
6 All bonds, obligations or other writings taken in pursuance of any
7 of the provisions of this act shall be made payable to the city of
8 Williamson, with such sureties and in such penalties as may be
9 deemed proper, conditioned for the faithful performance of their
10 duties and for the accounting for and paying over, as required by
11 law, all moneys or other assets or property coming into their hands
12 by virtue of their offices, and the respective persons, and their heirs,
13 executors and assigns bound thereby, shall be subject to the same
14 proceedings on said bonds, obligations and other writings, for en-
15 forcing the conditions of the terms thereof, by motion or otherwise,
16 before any court of competent jurisdiction, held in and for the
17 county of Mingo, that collectors of county levies and other sureties
18 are or shall be subject to on their bonds for enforcing the payment
19 of the county levies.

Records of the Commission.

Sec. 18. The commission shall cause to be kept in a well
2 bound book called the "Commission Journal" an accurate record of
3 all its proceedings, by-laws, ordinances, orders and resolutions which
4 shall be fully indexed, and shall be open to the inspection of any one
5 who is required to pay taxes to such city. The records of the city
6 of Williamson shall be deposited with the commission of said city,
7 and it shall make suitable provisions for the safe keeping and pre-
8 servation of the same. At each meeting of the commission the
9 proceedings of the last meeting shall be read, corrected, if erroneous,
10 and signed by the officer then presiding.

Powers and Duties of Commission.

Sec. 19. The commission of said city shall have power to lay
2 off, vacate, close, open, alter, grade, build and keep in good repair
3 roads, streets, alleys, pavements, sidewalks, crosswalks, viaducts,
4 bridges, drains and gutters therein for the use of the citizens and
5 of the public and to improve and light the same, and to keep the
6 same free from obstructions of every kind; to regulate the width
7 of pavements and sidewalks on the streets and alleys, and to order
8 the pavement, sidewalks, footways, drains and gutters to be kept
9 in good order, free and clean, by the owners or occupants of the

10 real property next adjacent thereto; to establish and regulate
11 markets, prescribe the time for holding the same, provide suitable
12 and convenient buildings therefor, and prevent the forestalling or
13 regrating of such markets; to prevent injury or annoyance to the
14 public or to individuals from anything dangerous, offensive or
15 unwholesome; to prohibit or regulate slaughter houses and soap
16 factories within the city limits, or the exercise of any unhealthful
17 or offensive business, trade or employment; to abate all nuisances
18 within the city limits or to require and compel the abatement or
19 removal thereof, by or at the expense of the owner or occupant of
20 the ground on which they are placed or found; to cause to be filled
21 up, raised or drained by or at the expense of the owner any city
22 lot or tract of land covered or subject to be covered by stagnant
23 water; to prevent horses, hogs, cattle, sheep or other animals and
24 fowls of all kinds from going or being at large in such city, and,
25 as one means of prevention, to provide for impounding and con-
26 fining such animals and fowls, and, upon failure to reclaim, for
27 the sale thereof; to protect places of divine worship and to pre-
28 serve order in and about the premises where and when such wor-
29 ship is held; to regulate the keeping of gunpowder and other in-
30 flammable and dangerous substances; to provide and regulate the
31 building of houses or other structures, and for the making and
32 maintaining of division fences by the owners of adjoining prem-
33 ises, and the proper drainage of city lots, or other parcels of land,
34 by or at the expense of the owner or occupant thereof; to provide
35 against damage or danger by fire; to punish for carrying deadly
36 weapons, and for assaults and batteries; to prohibit loitering in
37 or visiting houses of ill fame, or loitering upon the streets; to
38 prevent lewd and lascivious conduct, the sale or exhibition of in-
39 decent pictures or other representations; the desecration of the
40 Sabbath day; profane swearing; the illegal sale of all intoxicating
41 liquors, drinks, mixtures and preparations, beer, ale, wine or
42 drinks of like nature. To protect the persons of those residing
43 or being within the city; to build or purchase, or lease and to use,
44 a suitable place within or near said city for the safe keeping or
45 punishment of persons charged with, or convicted of, the violation
46 of laws and ordinances, to provide for the employment of persons
46-a convicted of the violation of laws and ordinances, or who may
46-b be committed in default of the payment of fines, penalties or costs
47 and who are otherwise unable to discharge the same, by putting
48 them to work for the benefit of the city, and to use such means to

49 prevent their escape, while at work, as may be deemed expedient;
50 to erect or authorize or prohibit the erection of gas works, electric
51 light works or water works within the city limits, to prevent injury
52 to such works or the pollution of any gas or water used or intended
53 to be used by the public or by individuals, and to do all things
54 necessary to adequately supply said city, and the inhabitants there-
55-6 of, with pure, healthy and wholesome water; to use, generate,
57 distribute, sell and control electricity and gas for heat, light
58 and power, and to furnish light for the streets, houses,
59 buildings, stores and other places in and about said city;
60 to provide a sewerage system for said city; to provide for
61 and regulate the weighing and measuring of hay, coal,
61-a lumber and other articles sold, or kept or offered for
62 sale within said city; to establish and construct wharfs and docks,
63 and to repair, alter or remove any landing, wharf or dock, which
64 has been or shall be so constructed, and to establish and collect
65 rates and charges for the use thereof; to regulate the running and
66 speed of engines and cars within city limits, except that the com-
67 mission of said city shall not interfere with the speed of trains
68 and engines in territory not laid out in lots, streets and alleys,
69 and open and used by the public; to organize one or more fire
70 companies and provide necessary apparatus, tools, implements,
71 engines or any of them, for their use, and in their discretion to
72 organize a paid fire department; to make regulations with respect
73 to the erection and locations of all telephone, telegraph, electric
74 light or other poles within said city, and the extension of any
75 wires, lines and poles by any individuals or corporation; to grant
76 and regulate all franchises in, upon, over or under the streets,
77 alleys and public ways of said city, under such restrictions as
78 shall be provided by ordinance, but no exclusive franchise shall
79 be granted by said commission to any individual or corporation,
80 nor shall any franchise be granted for a longer period than fifty
81 years; to create by ordinance such committees or boards, and
82 delegate such authority thereto, as may be deemed necessary or
83 advisable; to provide for the annual assessment of taxable proper-
84 ty therein, including dogs kept in said city, and to provide a
85 revenue for the city for municipal purposes, and to appropriate
86 such revenue to its expenses, and generally to take such measures,
87 as may be deemed necessary or advisable, to protect the property,
88 public and private, within the city; to preserve and maintain
89 peace, quiet and good order therein; to preserve and promote the

90 health, safety, comfort and well being of the inhabitants thereof;
91 to prevent gambling, the keeping of poker rooms and gaming
92 tables and to establish voting precincts.

93 The commission of said city shall have the power and author-
94 ity to control and regulate the construction and repairs of all
95 houses and other buildings within the said city; to provide for
96 the granting of building permits; to cause the removal of unsafe
97 walls or buildings; and may, upon the petition of the person or
98 persons owning the greater amount of frontage of the lots abut-
99 ting on any street between any two cross streets or in any square
100 of said city, prohibit the erection on such street, or in such square,
101 of any building, or any addition to any building, more than ten
102 feet high, unless the outer walls thereof be made of brick and
103 mortar, or other fireproof material; and to provide for the removal
104 of any building or addition which shall have been erected con-
105 trary to such prohibition, at the expense of the owner or owners
106 thereof.

Enforcement of Powers.

Sec. 20. To carry into effect these enumerated powers
2 and all others by this act or by general law conferred, or which
3 may hereafter be conferred upon the said city or its commission,
4 or any of its officers, the said commission shall have and possess
5 full authority to make, pass and adopt all needful ordinances, by-
6 laws, orders and resolutions, not repugnant to the constitution and
7 laws of the United States or of this state; and to enforce any
8 or all of such ordinances, by-laws, orders or resolutions, by pre-
9 scribing for a violation thereof, fines and penalties and imprison-
10 ment in either the county jail of Mingo county or the city prison,
11 if there be one; but no fine shall exceed fifty dollars, and no term
12 of imprisonment shall exceed ninety days. Such fines and penal-
13 ties shall be imposed and recovered, and such imprisonment in-
14 flicted and enforced, by and under the judgment of the mayor of
15 said city; or, in case of his absence, or inability to act, of one of
16 the commissioners, appointed for the purpose by the commission.

Annual Estimate of Expenditures.

Sec. 21. The commission shall cause to be annually made
2 up and entered upon its journal not later than the first day of
3 July of each year, an accurate estimate of all sums that are or

4 may become chargeable to such city, and which ought to be paid,
5 within one year and it shall order a levy of so much as may, in
6 its opinion, be necessary to pay the same.

Publications.

Sec. 22. The commission shall publish each year the financial
2 statement of the city, which statement shall show all moneys re-
3 ceived and disbursed for any purpose. The commission may also
4 publish real estate delinquent for taxes in like maner, to the same
5 extént and with like effect as is now provided with reference to
6 lands delinquent for taxes for state purposes. The commission
7 may in its discretion advertise in a newspaper a list of such per-
8 sons, firm and corporations as may be delinquent in the payment
9 of polls, personal property taxes and water rents.

Annual Levy.

Sec. 23. The levy so ordered shall be upon all dogs in the
2 said city, and upon all real and personal property therein sub-
3 ject to state taxes upon the basis of the valuation of such property
4 as fixed for state purposes; but the taxes so levied upon property
5 shall not exceed the rate allowed by general law, except where
6 authorized by a vote of the people.

Money, How and When Paid.

Sec. 24. All taxes which the commission is or shall be
2 authorized to levy and collect, and all fines and penalties which
3 may be imposed and collected for violations of the laws and
4 ordinances of said city, shall inure to the exclusive benefit of said
5 city, and all moneys received or collected for the use of said city
6 shall be paid into the city treasury, and shall not be drawn there-
7 from except as the commissioner in accordance with this act may
8 order, by orders drawn upon the city treasury, signed by the
9 mayor and countersigned by the clerk, and no order shall be
10 issued upon any fund unless there is an unexpended balance to
11 the credit thereof sufficient to cover such order and money in
12 the treasury to pay it. The commission shall, once at least every
13 year, cause to be published in two newspapers published in the
14 said city, a statement of the receipts and expenditures of said
15 city for the past year for each of the several funds, signed and
16 sworn to by the clerk, and attested by the mayor.

Prevention of Illegal Sale of Liquor.

Sec. 25. The commission shall have full power to make and
2 enforce ordinances for the prevention of the illegal sale of all
3 spirituous, vinuous and malt liquors within the city. No license
4 for the sale of liquor shall be allowed, except in the case permitted
5 by the constitutional amendment and prohibition laws.

Revoking Licenses.

Sec. 26. The commission may revoke any license granted
2 by the city, where license is required, in order to conduct the
3 business of the licensee, upon good cause shown, but the person
4 holding the license shall have reasonable notice of the time and
5 place of hearing, as well as the cause alleged and he shall be
6 entitled to be heard in person or by counsel in opposition to
7 such revocation.

Other License.

Sec. 27. When anything for which a state license is required,
2 the commission may require a city license therefor, in the manner
3 prescribed by law, and may impose a tax thereon for the use of
4 the city. And the commission may make and enforce all reason-
5 able ordinances respecting the same, provided only that such
6 ordinances shall not be in conflict with the constitution and laws
7 of this state and of the United States.

Sidewalks, Street Paving, Etc.

Sec. 28. If the owner or occupant of the real property
2 abutting on any sidewalk, footway or gutter in such city, shall fail
3 or refuse to curb, pave or keep the same clean, in the manner or
4 within the time required by the commission, it shall be the duty
5 of the commission to cause the same to be done at the expense
6 of the city, and to assess the amount of such expense on such
7 property, or upon the owner or occupant thereof, and the same
8 may be collected by the collector in the maner provided herein
9 for the collection of city taxes.

10 Upon the petition, in writing, of the persons owning the
11 greater amount of frontage of the lots abutting on any street or
12 alley, between any two cross streets, or between a cross street and
13 an alley, the commission of the city, by a lawful majority thereof,
14 may order such part of any street or alley to be paved between

15 the sidewalks with cobble stones, brick, belgian blocks, asphalt,
16 or other suitable material, from one of such cross streets or
17 alleys to the other, under such regulations as may be fixed by
18 ordinance duly passed by the commission; two-thirds of the cost
19 of such paving shall be assessed to the owners of the lots or frac-
20 tional parts of lots abutting on that part of the street or alley so
21 paved in proportion to the distance such lot or part of a lot
22 abutts on such street or alley, and the remaining one-third of the
23 cost of such paving shall be paid by the city. In making such
24 assessments the basis shall be the cost of paving that part of the
25 street or alley on which the property lies, included between the
26 adjoining cross streets or alleys, and the amounts assessed against
27 the owners of each lot or fractional part of a lot, shall be in the
28 proportion which the frontage of such lot or part of lot bears to
29 the whole cost of paving said street or alley between said cross
30 streets or alleys as aforesaid; and the same may be collected in the
31 manner provided herein for the collection of city taxes.

Liens for Taxes, Assessments, Etc.

Sec. 29. There shall be a lien on all real estate within the
2 city for the city taxes assessed thereon, from the day fixed by law
3 for the commencement of the assessment of such taxes in each
4 year and the interest upon such taxes at the rate of six per centum
5 per annum from the first day of January next after such assess-
6 ment until payment, which may be enforced by the commission
7 in the same manner now provided by law for the enforcement of
8 the lien for state and county taxes, or in such other manner as
9 the commission may by ordinance prescribe. There shall also be
10 a lien on all real estate within the city for other assessments,
11 fines and penalties assessed or imposed upon the owners thereof
12 by the authorities of the city from the time the same are so as-
13 sessed or imposed, which shall have priority over all other liens
14 except the lien for taxes and may be enforced by the commission
15 by suit in equity, in the corporate name of the city, in the same
16 manner now prescribed by law for the enforcement of the lien for
17 state or county taxes, or in such other manner as the commission
18 may by ordinance prescribe. If any real estate within the city
19 be returned delinquent for the non-payment of the taxes thereon,
20 a copy of such delinquent list may be certified by the clerk of the
21 commission to the proper officer, in order that the same may be
22 sold for taxes, interest and commissions thereon in the same man-

ner, at the same time, and by the same officer as real estate is sold for the non-payment of state taxes.

Mayor.

Sec. 30. At the first meeting of the commission appointed or elected hereunder as the case may be, they shall select and appoint one of their number as mayor of the city, who shall continue as such, unless sooner removed in the manner prescribed by law, until his successor shall be elected and shall qualify as provided by law. In the event of a vacancy in the office of mayor, the remaining members of the commission shall choose his successor for the unexpired term from their own number.

The mayor shall be the presiding officer of the commission except that in his absence a mayor *pro tempore* may be chosen. The mayor, by virtue of his office, shall be city manager. He shall exercise all such powers as are conferred and perform all duties imposed upon him by this charter, by the ordinances of the city, as well as by the laws of the state, not in conflict herewith. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes; by the government for the purposes of the military law, and for all ceremonial purposes; and by virtue of his said office, shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments, and it shall also be his duty to see:

- (a) That the laws and ordinances are enforced;
- (b) And with the advice and counsel of the commission to appoint, and, except as otherwise herein provided, remove all subordinate officers and employees in all the city departments; all appointments to be made upon merit and fitness alone;
- (c) To exercise control of all departments and divisions created herein or that may hereafter be created by the commission;
- (d) To attend all meetings of the commission;
- (e) To recommend to the commission for adoption such measures as he may deem necessary or expedient;
- (f) To keep the commission fully advised as to the financial condition and needs of the city;
- (g) To perform such other duties as may be prescribed by

37 this charter or be required of him by ordinance or
38 resolution of the commission.
39 (h) The mayor is hereby authorized and empowered to
40 exercise all the duties and functions of a justice of the
41 peace in the trial of criminal cases, but, before doing
42 so, the said mayor shall qualify before the county court
43 and give the bond required of justices of the peace.

Clerk of the Commission.

Sec. 31. The commission shall choose a clerk from its own
2 body. The clerk shall be known as the clerk of the commission
3 and shall keep records and perform such other duties as may be
4 required of him by the commission or by this charter. He is also
5 hereby empowered to certify under the seal of the city any copy
6 of the records, papers or documents of the city for use as evidence
7 in any court or other tribunal.

Departments.

Sec. 32. The following administrative departments are here-
2 by established by this charter:

- 3 1. Department of Law.
- 4 2. Department of Public Service.
- 5 3. Department of Public Welfare.
- 6 4. Department of Public Safety.
- 7 5. Department of Finance.

8 The commisison may, by ordinance, discontinue any depart-
9 ment, and determine, combine and distribute the functions and
10 duties of departments and sub-divisions thereof.

Directors of Departments.

Sec. 33. The mayor may designate members of the commis-
2 sion as directors of the departments established as above, and the
3 directors of the department assigned as aforesaid, shall be sub-
4 ject to the supervision and management of the mayor, conduct
5 the affairs of his department in accordance with the rules and
6 regulations promulgated by the mayor and shall be responsible
7 for the other officers and members of his department, for the per-
8 formance of its business and for the custody and preservation of
9 the books, records, papers and property under its control. Subject
10 to the supervision and control of the said mayor in all matters,

11 the directors so designated for each department shall manage the
12 department. The mayor may designate one member of the com-
13 mission as director of more than one department.

Department of Law; City Attorney.

Sec. 34. The commission shall appoint a city attorney, who
2 shall be an attorney at law, admitted to practice in the state of
3 West Virginia, who shall be the head of the department of law.
4 He shall be the legal adviser of and attorney and counsel for the
5 city and for the officers of the departments thereof in matters
6 relating to their official duties. He shall prosecute and defend all
7 suits, actions and procedures for and in behalf of the city; shall
8 prepare all contracts, bonds and other instruments in writing in
9 which the city is concerned and shall endorse on each his approval
10 of the form and correctness thereof. He may, if required by the
11 mayor, appear and assist in the prosecution of persons arrested
12 for violating the ordinances of the city or the laws of the state
13 of which the mayor may have jurisdiction. The mayor or any
14 member of the commission may require his opinion in writing up-
15 on any question at law involving their respective powers and
16 duties.

Department of Public Service; General Powers and Duties.

Sec. 35. Subject to the supervision and control of the mayor
2 as city manager in all matters, the director of public service, if one
3 there be, and if there be no such director designated, then the
4 mayor as city manager himself, shall manage and have charge of
5 the construction, improvement, repair and maintenance of streets,
6 side-walks, alleys, lanes, bridges, viaducts, and other public high
7 ways; of sewers, drains, ditches, culverts, canals, streams, and
8 water courses; of all public buildings; of boulevards, squares, and
9 other public places and grounds belonging to the city or dedicated
10 to public use, except parks and play-grounds. He shall manage
11 market houses, sewer disposal plants and all public utilities of the
12 city. He shall have charge of the enforcement of all the obliga-
13 tions of privately owned or operated public utilities enforceable
14 by the city. He shall have charge of the making and preserva-
15 tion of all surveys, maps, plans, drawings, and estimates for such
16 public work; the cleaning, sprinkling, and lighting of streets and
17 public places; the collection and disposal of waste; the preserva-

18 tion of contracts, papers, plans, tools, and appliances belonging to
19 the city and pertaining to the department.

Department of Public Welfare; General Powers and Duties.

Sec. 36. Subject to the supervision and control of the mayor
2 as city manager in all matters, the director of public welfare
3 if one there be and if there be no such director designated, then
4 the mayor as city manager himself, shall manage all charitable,
5 correctional, and reformatory institutions and agencies belonging
6 to the city; the use of all recreational facilities of the city, includ-
7 ing parks and playgrounds. He shall have charge of the inspec-
8 tion and supervision of all public amusements. He shall enforce
9 all laws, ordinances, and regulations relative to the preservation
10 and promotion of the public health; the prevention and restric-
11 tion of disease; the prevention, abatement and suppression of
12 nuisances, and the sanitary inspection and supervision of produc-
13 tions, transportation, storage and sale of food and foodstuffs. In
14 time of epidemic, or threatened epidemic, he may enforce such
15 quarantine and isolation regulations as are appropriate to the
16 emergency.

Health Officer.

Sec. 37. The health officer of the city shall be under the
2 direction and control of the director of public welfare, if such
3 director there be—but, if none be designated, then under the
4 direction and control of the mayor as city manager,—and shall
5 enforce all ordinances and laws relating to health and shall per-
6 form all duties and have all the powers provided by general law
7 relative to the public health to be exercised in municipalities by
8 health officers; provided that regulation affecting the public
9 health additional to those established by general law and for the
10 violation of which penalties are imposed, shall be enacted by the
11 commission and enforced as provided herein.

Department of Public Safety; General Powers and Duties.

Sec. 38. Subject to the supervision and control of the mayor
2 as city manager in all matters, the director of public safety—if
3 there be one, but if none be designated, then the mayor as city man-
4 ager himself, shall be the executive head of the divisions of police
5 and fire. He shall also be the chief administrative authority in

6 all matters affecting the inspection and regulation of the erection,
7 maintainence, repair and occupancy of buildings as may be ordain-
8 ed by the commission or established by the general law of the state
9 of West Virginia. He shall also be charged with the enforcement
10 of all laws and ordinances relating to weights and measures.

Division of Police.

Sec. 39. The chief of police shall have control of the station-
2 ing and transfer of all patrolmen and other officers and employees
3 constituting the police force, under such rules and regulations
4 as the director of public safety—or in his absence, the mayor
5 as city manager—may prescribe. The police force shall be com-
6 posed of a chief of police and such officers, patrolmen and other
7 employees as the commission may determine.

Chief of Police.

Sec. 40. The chief of police shall be *ex-officio* constable
2 within the corporate limits of his city. He may execute any writ
3 or process issued by the mayor as city manager or justice of the
4 peace at any place in Mingo county. He shall have all the powers,
5 rights and privileges within the corporate limits of the city, in
6 regard to the arrest of persons, the collection of claims, and the
7 execution and return of process, that can be legally exercised by a
8 constable of the district in which the said city is situated, and
9 he and his sureties shall be liable to all the fines, penalties and
10 forfeitures that a constable of a district is liable to, for any failure
11 or dereliction in his office, to be recovered in the same manner and
12 in the same courts that fines, penalties and forfeitures may be
13 recovered against such constable. All special police officers shall
14 have and possess all the powers, rights and privileges of a con-
15 stable of the district within the corporate limits of the city, in
16 regard to the arrest of persons and the execution and return of
17 all criminal writs and process issued by the mayor; but the com-
18 mission may exempt them from giving bond required of constables.

Division of Fire.

Sec. 41. The fire chief shall have control of the stationing
2 and transfer of all firemen and other officers and employees con-
3 stituting the fire force under such rules and regulations as the

4 directors of public safety—or in his absence the mayor as city
5 manager—may prescribe. The fire force shall be composed of a
6 chief and such other firemen, officers and employees as the com-
7 mission may determine.

Suspension of Chief of Police and Fire Chief.

Sec. 42. The city manager shall have the right to suspend
2 the chief of police and fire chief for incompetence, neglect of duty,
3 immorality, drunkenness, failure to obey orders given by proper
4 authority, or for any other just and reasonable cause. If either
5 of such chiefs be so suspended the mayor as city manager shall
6 forthwith certify the fact, together with the cause of suspension,
7 to the commission, who within five (5) days from the date of
8 receipt of such notice, shall proceed to hear such charges and
9 render judgment thereon, which judgment shall be final.

Department of Finance; General Duties of the Director of Finance.

Sec. 43. The duties of the director of finance shall include
2 the keeping and supervision of all accounts and the custody of all
3 public money of the city; the purchase, storage and distribution of
4 supplies needed by the various departments; the making and col-
5 lection of special assessments; the issuance of licenses; the collec-
6 tion of license fees, and such other duties as the commission
7 may, by ordinance, require.

City Accountant.

Sec. 44. The city clerk shall perform the duties of an ac-
2 countant and shall install and have supervision over the accounts
3 of all departments and offices of the city. The city accountant
4 shall require statements exhibiting each transaction and the cost
5 thereof. Upon the death, resignation, removal or expiration of
6 the term of any officer, the city clerk, as the city accountant,
7 shall examine the accounts of such officer and report his findings
8 to the mayor as city manager.

Accounting Procedure.

Sec. 45. Accounting procedure shall be devised and main-
2 tained for the city adequate to record in detail all transactions
3 affecting the acquisition, custodianship, and disposition of values,
4 including cash receipts and disbursements; and the recorded facts

5 shall be presented periodically to officials and to the public in
6 such summaries and analytical schedules in detailed support
7 thereof as shall be necessary to show the full effect of such trans-
8 actions for each fiscal year upon the finances of the city and in
9 relation to each department of the city government, including dis-
10 tinct summaries and schedules for each public utility owned and
11 operated.

City Assessors.

Sec. 46. The city assessor shall be appointed by the commis-
2 sion and it shall be his duty to make an assesment of the prop-
3 erty within the city subject to taxation, substantially in the man-
4 ner and form in which assessments are made by the assessor of
5 the county, and return the same to the commission on or before
6 the first day of August of each year; and for this purpose he shall
7 have access to all public books and records of Mingo county, and to
8 all documents and papers in the hands of the county assessor re-
9 lating to assessments for state and county purposes, between the
10 first day of April and the first day of June of each year, with-
11 out expense to the city, and shall have all the powers conferred
12 by law on county assessors. In case the assessor of the city shall
13 discover any property subject to taxation which has not been listed
14 by the county assessor, or assistant tax commissioner, it shall be
15 his duty to list the same, and make report of the fact, with a de-
16 scription of the property and its owner, to the county assessor or
17 assistant tax commissioner; and it shall be the duty of the county
18 assessor or assistant tax commissioner to list the same for the state
19 and county purpose and to make a proper valuation of the same,
20 and report its valuation to the assessor of the city. The assessor
21 of the city shall list the dogs in the city, with the names of the
22 owners thereof and return the list to the commission. The com-
23 mission shall have the power to make and enforce regulations
24 respecting the listing and taxation of dogs in the city, and to
25 provide for impounding and killing such as appear to have no
26 owner, or upon which the tax has not been paid. And it shall
27 have the power to make and enforce all needful ordinances re-
28 specting the assessment of property.

City Collector.

Sec. 47. The commission shall appoint a city collector, whose

2 duty it shall be to collect all taxes, license fees, assessments, rents
3 and other demands and obligations due or accruing to the city
4 and to keep a strict account thereof. He shall collect all license
5 and license fees at the time such licenses are delivered. All funds
6 so collected by him he shall pay into the city treasury in the man-
7 ner provided by ordinance.

City Treasurer.

Sec. 48. The city treasury shall be one or more of the banks of
2 the city, and shall be selected biennially by the commission. The
3 bank or banks which shall be designated city treasury shall be
4 first chosen at the first regular meeting of the commission held in
5 July, one thousand nine hundred and fifteen, and thereafter on the
6 same day each second year. The money deposited therein shall
7 be disbursed only upon order drawn against the same, signed and
8 countersigned as hereinafter prescribed. Such bank or banks se-
9 lected shall give bond with security to the city, to insure the
10 safety of such deposit, in amount sufficient to protect the highest
11 amount deposited, the security to be approved as other bonds are
12 herein provided to be approved. The city treasurer, on the last
13 day of each month, shall furnish the commission a statement
14 showing by items its receipts and disbursements for said month
15 and the amount on hand; and it shall annually, on or immediately
16 before the first day of July, make such settlement with the com-
17 mission as the general laws of this state provide for sheriff's set-
18 tlement with the county courts.

Payment of Claims.

Sec. 49. No warrant for the payment of any claim shall be
2 issued except by order of the commission. The warrant shall be
3 signed by the clerk and the mayor, as city manager, respectively.

Right to Condemn Real Estate.

Sec. 50. The commission shall have the right to institute
2 proceedings in the name of the city for the condemnation of real
3 estate for the use of roads, bridges, streets, alleys, drains, public
4 buildings and other grounds, including parks and cemeteries, and
5 sites for public libraries for the use of the city; and the manner
6 of procedure shall, as nearly as practicable, conform to the pro-

7 vision of the code of West Virginia, and the expenses thereof shall
8 be borne by the city.

Pay Roll Certified.

Sec. 51. No warrant for the payment of money by way of
2 salary or compensation shall be issued for service to any person
3 unless there be filed with the clerk of the commission an itemized
4 sworn account, fully describing the character and amount of ser-
5 vices or salary sought to be paid, the correctness of which account
6 shall be certified by the officer having full knowledge of the cor-
7 rectness of such account.

Salaries.

Sec. 52. The annual salaries of the officers, to be appointed
2 or elected hereunder, shall be fixed by the commission, not to
3 exceed the following amounts:

4 The mayor as such and as general manager	\$1,800.00
5 Clerk of the commission,	900.00
6 Commissioners, other than those acting as mayor and	
7 clerks, each,	300.00
8 City attorney,	900.00
9 City assessor,	300.00
10 City collector,	1,500.00

11 The salaries to be paid out of the city treasury, proportionately
12 at the end of each month, but never in advance. All fees, commis-
13 sions and other emoluments, except salaries, shall be taxed and
14 collected and when so collected shall be paid into the treasury by
15 the officers, respectively, for the absolute use of the city.

Official Bonds.

Sec. 53. The several officers of the city shall give bonds
2 in penalties conditioned as prescribed by law, with sufficient sure-
3 ties thereon to be approved by the commission, as follows, to-wit:

4 The mayor as such and as city manager,	\$5,000.00
5 The city clerk,	1,000.00
6 The commissioner, if such commissioner shall act as the	
7 director of a department,	2,500.00
8 The city collector not less than	5,000.00
9 The city treasurer not less than	5,000.00

Continuance of Present Officers.

Sec. 54. All persons holding office at the time of the passage of this act shall continue in office in the performance of their duties until the first day of July, one thousand nine hundred and fifteen, and until the appointment and qualification of the commissioners as provided for in section ten herein. When such appointment has been made and the appointee shall have taken the oath of office, then the term of the officers acting for said city at the time this act shall take effect, shall expire, on the thirtieth day of June, one thousand nine hundred and fifteen.

Oath of Office.

Sec. 55. Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath and affirmation to be filed and kept, in the office of the commission, that he will in all respects faithfully discharge the duties of his office.

Continuance of Contracts.

its benefit prior to the taking effect of this act; shall continue in full force and effect. All public work begun, prior to the taking effect of this act, shall be continued and completed hereunder.

Existing Ordinances.

Sec. 57. All ordinances and resolutions in force at the time of the taking effect of this act, not inconsistent with its provisions, shall continue in force until amended or repealed.

Assessment for the Removal of Snow, Weeds, Etc.

Sec. 58. The commissioner shall have power to provide by ordinance for assessing against the abutting property the cost of removing from the sidewalks all accumulations of snow and ice, and for assessing against the property the cost of cutting and removing therefrom noxious weeds and rubbish.

Sec. 59. The commission is authorized and empowered on

Sec. 56. All contracts entered into by the city or made for behalf of the city on its own account or in concert with either the county court of the county of Mingo or the proper official or tribunal of the county of Pike, in the state of Kentucky, or both

5 of them, to erect or cause to be erected, and constructed a bridge
6 across Tug river at said city for public use and travel and may
7 levy and collect in addition to the general tax herein provided for
8 a special tax not to exceed ten (10) cents on each one hundred
9 dollars valuation of taxable property in said city for such pur-
10 pose for not more than one year to be known as the "bridge fund."

Sec. 60. All the acts and parts of acts inconsistent with the
2 provisions hereof are hereby repealed.

Senate Bill No. 171

AN ACT to amend and re-enact sections two, ten and twenty-eight of
chapter eighty-one of the acts of one thousand nine hundred and
eleven, relating to the corporate limits of the city of Elkins;
qualification of voters; powers and duties of the common coun-
cil, and lien for taxes, assessments, reassessments, etc., for and
within said city of Elkins.

Be it enacted by the Legislature of West Virginia:

That sections two, ten and twenty-eight of chapter
2 eighty-one of the acts of one thousand nine hundred and eleven,
3 be amended and re-enacted so as to read as follows:

Sec. 2. The corporate limits of said city shall hereafter be
2 as follows:

3 Beginning at the southern abutment of bridge No. 2 of the
4 Western Maryland railway, across the Tygarts Valley river, on
5 its Huttonsville branch, being the bridge of said railway, situate
6 about 1,000 feet south of the junction of the Belington extension
7 and Huttonsville branch of said railway, and running thence down
8 said Tygarts Valley river on the east bank thereof to a stake at
9 the corner between S. B. Elkins and Davis & Elkins college
10 ground; thence with the line between said S. B. Elkins and Davis
11 & Elkins college property to a stake in the western side of the
12 Beverly and Fairmont pike; thence with the western boundary of
13 said pike in a northerly direction to a stake in the present corpo-
14 rate lines of said city; thence by a straight line to the highest
15 point of the hill situated in the angle between the Beverly and
16 Fairmont pike and the Coal & Iron railway, immediately in the

17 rear of the L. I. Keenan property; thence by a straight line to
18 the highest point in the land line between the lands of Elizabeth
19 Goddin and Lewis Woolwine at the top of the hill immediately
20 back of the residence of J. W. Goddin, in a northeasterly
21 direction about 1025 feet to a point where the present corporate
22 line crosses Woolwine run; thence S. 58 E. 1885 feet to a post in
23 a line between Woolwine and Taylor, 40 feet south-east of Judson
24 Goddin's corner; thence N. 17 E. 900 feet with Woolwine and
25 Taylor line to a stone, a corner to Wees, Woolwine and Taylor,
26 thence N. 26 W. 2662 feet to the south-eastern corner of the res-
27 ervoir lot on the top of "Wees Hill"; thence with the back line
28 of said reservoir lot to the northern corner thereof, the same be-
29 ing an oak; thence by a straight line to a point where the Buffalo
30 and Leading creek pike now crosses Craven's run; thence by a
31 straight line to the nearest corner of Maplewood cemetery; thence
32 with the line of said cemetery on the northern boundary thereof
33 to the northwestern corner of the new addition to said cemetery;
34 thence by a straight line due west to a stake in Isaac Scott's east-
35 ern line, or the elongation thereof; thence with such line to the
36 south side of Harrison avenue; thence west along Harrison ave-
37 nue to the forks of the road; thence by a straight line to the old
38 lines where the south lines of Wilson street extended intersects
39 Robert E. Lee avenue; thence with the western line of Robert E.
40 Lee avenue, allowing 60 feet for said avenue, continuing said line
41 to Tygarts Valley river; thence by a straight line to the begin-
42 ning.

Qualifications of Voters.

Sec. 10. Every male person residing in said city who has at-
2 tained the age of twenty-one years, and who has been a resident
3 of this state for one year and of said city for four months next pre-
4 ceding any election, and who is not of unsound mind, or a pauper
5 or under conviction of treason, felony or bribery in an election,
6 shall be entitled to vote at any municipal election of said city; *pro-*
7 *vided*, he is registered in the ward or precinct of said city in which
8 he resides, as herein provided.

9 The clerk of said city shall act as registrar of voters for all
10 municipal elections to be held within said city, both general and
11 special, and before proceeding to register any of the voters of said
12 city he shall take an oath to support the constitution of the United
13 States, the constitution of West Virginia, and to perform the du-

14 ties of registrar for said city to the best of his ability. Said oath
15 shall be filed and preserved by said clerk among the official records
16 of his office. For his services as such registrar, said clerk shall re-
17 ceive such compensation as may be determined by the city coun-
18 cil.

19 The city council shall cause to be prepared suitable books and
20 blanks for the registration of voters. Such books shall be so ar-
21 ranged as to admit of the alphabetical classification of the electors,
22 ruled in parallel columns, on which shall be entered, first, the
23 name of the person registered; second, age; third, place of birth;
24 fourth, place of residence in precinct; **fifth, time of residence in**
25 precinct; and sixth, if naturalized, the date of the papers, and the
26 court by which issued. Two of such books shall be furnished to
27 and filled out by the clerk for each of the precincts or wards of
28 said city.

29 After causing to be published in two newspapers of opposite
30 politics of said city a notice containing the dates upon which he
31 shall start to register and complete the registration of voters, and
32 the hours of registration, the said clerk shall, on Tuesday of the
33 sixth week, prior to any election, at the office of the mayor of said
34 city, proceed to register such of the voters of said city as make ap-
35 plication in person to him for registration in the registration books
36 for the precincts or wards in which such voters have legal resi-
37 dence, and shall continue such registration until and including
38 Tuesday in the second week prior to such election. It shall be the
39 duty of the said clerk during such period to keep the said mayor's
40 office open as a place for the registration of voters from eight o'clock,
41 A. M., until noon, and from one o'clock, P. M., until six o'clock, P. M.,
42 each day, and during the last week of such period, he shall also
43 keep said office open from half-past seven o'clock, P. M., until half-
44 past nine o'clock, P. M., each day. The publication of the notice of
45 registration herein provided shall be published once during the week
46 preceding said registration, and once each week during said reg-
47 istration period, in the newspapers, as aforesaid.

48 No person shall be registered as an elector at any other time
49 or place than in this section designated; and in making registra-
50 tion, every applicant shall answer the inquiries made by the said
51 clerk: and the said clerk, having openly and publicly prepared for
52 such registration at the time and place herein appointed, shall
53 proceed as follows:

54 *First.* He shall receive the application for registration of

55 all such persons, resident in the city, as then are, or on the day of
56 election which will next follow, will be entitled to vote therein,
57 and who shall personally come before him, and such only. Said
58 clerk may, and if the right of the applicant to be registered be chal-
59 lenged by an elector, shall, administer the following oath, to-wit:
60 "You solemnly swear (or affirm) that you will truly and fully an-
61 swer such questions as may be put to you touching your place of
62 residence, birth, qualification as an elector, and your right as such
63 to be registered and to vote under the laws of this state."

64 *Second.* He shall then examine each applicant as to his res-
65 idence and qualification as an elector, and for that purpose may
66 propound the following questions:

67 I. Are you a citizen of the United States?

68 II. Are you a native or naturalized citizen?

69 (If the person offering to be registered claims to be a natural-
70 ized citizen of the United States he shall produce, for the inspec-
71 tion of the clerk, a certificate or other evidence of his naturaliza-
72 tion, and also state under oath that he is the identical person
73 named therein; but the production of the certificate shall not be
74 required if the person offering to be registered shall state, under
75 oath, when and where he was naturalized, that he has had a cer-
76 tificate of naturalization, and that against his will the same is
77 lost, destroyed, or beyond his power to produce; or if he states un-
78 der oath that by reason of the naturalization of his parents, or
79 one of them, he has become a citizen of the United States, and
80 where or when his parents were naturalized.)

81 III. Will you have resided in this state for one year imme-
82 diately preceding the coming election?

83 IV. Have you been absent from this state within the
84 year immediately preceding the coming election, if so, when?

85 V. When you left this state did you leave for a temporary
86 purpose with the intention of returning, or for the purpose of
87 remaining away?

88-89 VI. Did you while absent look upon this state and regard
90 it as your home?

91 VII. Did you while absent vote in any other state?

92 VIII. Will you have resided in the city for four months
93 prior to the coming election?

94 IX. When you came into this city did you come for a tem-
95 porary purpose or for the purpose of making it your home?

96 X. Did you come into this city for the mere purpose of vo-
97 ting?

98 XI. Did you move into the precinct in which you now re-
99 side for the mere purpose of voting in it?

100 XII. Are you an actual resident of that precinct, if so, state
101 the location of your residence?

102 XIII. Are you twenty-one years of age, or will you be so
103 at the coming election, to the best of your knowledge and belief?

104 XIV. What is your age?

105 Every person shall be registered who will be entitled to
106 vote at the first election after the registration by reason of his
106-a arriving at twenty-one years of age before the time or by reason
107 of his having resided for a sufficient length of time in the state
108 and municipality, provided, he is otherwise qualified.

109 The clerk shall then, in the presence of the applicant, enter
110 in the registers his answers to the questions pertinent to the
111 headings of each column, in their order. In entering his number,
112 the numbers shall be filled up consecutively, leaving no blank, and
113 in names they shall include his christian name or names in full
114 as well as his surname. In the column as to "residence" shall be
115 stated the name of the street, avenue or alley or way in which his
116 dwelling is located or access to the same is usually had, and the
117 number of the house if it has one. If it has no number, a defin-
118 ite description by which it can be easily found must in every case
119 be given and entered. If there be more houses than one under the
120 number given, or if there be other families, tenants or lodgers, in
121 that in which the applicant resides, he must specify in which
122 house and on which floor, and whether front or rear of such
123 house he resides, and the number or location of his tenement.
124 In the column as to age the years and months must be stated, and
125 if the applicant is not at the time twenty-one years of age or more,
126 the words "not of age" must be inserted in the column of re-
127 marks. In the column as to "term of residence" the period of
128 the years and months of his residence in the precinct and state
129 must both be stated. In the column as to naturalization, the
130 answer "yes" or "no" or "native" must be given and stated.
131 The column as to "date of registration" must be filled with the
132 date of on which the application was actually registered, and none
133 other.

134 The statement of the applicant must be entered by the
135 clerk in both registers for the precinct in which applicant re-

136 sides, and both shall be signed by the applicant. Signatures,
137 when made by mark, must be attested by at least one subscribing
138 witness who shall be an elector, and the witness may be exam-
139 ined by the clerk under oath as to his knowledge of the per-
140 son thus attested, and in such case noted by the clerk on the
141 registers as "sworn," or "affirmed," as the case may be.

142 *Third.* Any elector of said municipality who is absent
143 therefrom, and more than thirty miles distant from such muni-
144 cipality, may appear before the judge or any clerk of any court
145 of record, or notary public; or, if in a foreign country, before
146 any minister, consul or vice-consul of the United States, and
147 make and subscribe an affidavit as to his residence specifying in
148 what ward or precinct he resides, and that he will be necessarily
149 and unavoidably absent from such municipality on all the days
150 allowed or appointed by this chapter for the general registration
151 of electors, and answering and setting forth accurately each and
152 all the matters herein required to be set forth in the register
153 of electors, and forward such affidavit, duly authenticated ad-
154 dressed to "municipal clerk" of such municipality. If received
155 by such municipal clerk it shall entitle such applicant to be en-
156 tered by said clerk in the proper registers of such precinct; and
157 in place of the signature of such elector, the word "affidavit"
158 shall be inserted, and no further registration of such applicant
159 shall be necessary. Such affidavit shall be filed and preserved
160 by the clerk in his office. But no such affidavit shall be accepted
161 unless the officer before whom it is made shall certify that the
162 affiant is personally known to him to be the person whom he rep-
163 resents himself to be, or proves so to be, by a credible person
164 known to him, and whose name and full address must be stated
165 in the certificate; *provided*, that in any case where the applica-
166 tion for registration is thus made by affidavit forwarded by mail,
167 if the municipal clerk is not satisfied that the applicant is a res-
168 ident of the precinct specified, or that he will be entitled to vote
169 at the next election, the word "challenged" shall be entered in
170 the register opposite his name in the column for remarks, and
171 such affidavit shall be transmitted to the judges of election, and
172 such applicant, if he applies to vote, shall be required to estab-
173 lish his residence and qualification before voting.

174 Any voter who shall have been registered in any precinct
175 as hereinbefore provided, and shall have removed from such pre-
176 cinct to another precinct within the municipality, may obtain

177 a certificate of transfer from the city clerk, and present the same
178 to the commissioners of election of the precinct wherein he re-
179 sides; and if the commissioners of election be satisfied that such
180 person has a legal residence in the precinct wherein he offers to
181 vote, they shall register such elector and allow him to vote. When
182 such certificate is issued by the clerk, the name of the elector
183 shall be stricken by him from the books from which such certifi-
184 cate is issued, and the word "transferred" be written opposite
185 his name.

186 *Fourth.* On Tuesday of the first week prior to any elec-
187 tion, it shall be the duty of the council of said city to meet in
188 special session as a general registration board, for the following
189 purposes:

190 I. To examine all registration books pertaining to the gen-
191 eral registration of the municipality.

192 II. To permit registration of electors who were unable to
193 procure registration on the days hereinbefore provided because
194 of sickness or absence from the city and not within reach of any
195 person before whom the affidavit for registration herein pro-
196 vided could be made.

197 III. To hear and determine the qualification of electors
198 whose names have been entered upon the registration books and
199 who shall appear not to be entitled to vote; and if said council be
200 satisfied that persons have been registered who are not entitled
201 to vote they shall cause such names to be stricken from the list
202 of voters; but in no case shall the council erase the name of any
203 voter until he shall have due notice of the time and place of tak-
204 ing evidence to prove his disqualification, which evidence he
205 shall have the right to rebut, and shall have his name restored
206 to such list if improperly stricken therefrom.

207 IV. To approve said registration books and attest the same
208 as being correct and a true list of the qualified voters of the re-
209 spective precincts described in said municipality.

210 The municipal clerk shall furnish one complete copy of reg-
211 istration to the election commissioners of the respective precincts
212 with the ballot boxes and other election supplies for use by them
213 in conducting the election in said voting precinct.

214 All registers when not in official use of the clerk, the city
215 council and the commissioners of election shall at all times be
216 deposited and locked up in the office of the city clerk, subject
217 to be produced by him for public inspection at all proper times.

218 If the said clerk shall wilfully and maliciously register
219 the name of any person not a qualified voter of any election pre-
220 cinct, or reject from registration the name of any qualified voter
221 of any precinct, contrary to the provisions of this chapter,
221-a he shall be deemed guilty of a felony, and upon convic-
222 tion thereof shall be confined in the state penitentiary not less
223 than one nor more than five years; or confined in the county jail
224 not more than twelve months, or fined not less than fifty nor more
225 than five hundred dollars, at the discretion of the court.

226 No person shall be allowed to vote at any election hereafter
227 held in the city of Elkins, after the first registration shall have
228 been completed according to the provisions of this chapter, un-
229 less he shall have been registered as herein provided; and the
230 commissioners of every election shall allow only those to vote
231 whose names appear on the registration books returned by the
232 clerk of said city; and any commissioner who shall wilfully vio-
233 late any of the provisions of this chapter shall be deemed guilty
234 of a felony and upon conviction thereof shall be confined in the
235 state penitentiary not less than one nor more than five years;
236 or, confined in the county jail not more than twelve months, or
237 fined not less than fifty nor more than one hundred dollars, or im-
238 prisoned not less than ten nor more than ninety days in the county
239 jail, or both, at the discretion of the court, for every offense.

240 The commissioners of election, within three days after any
241 election, shall return the registration books of such election pre-
242 cinct, together with the ballot boxes, ballots, etc., to the municip-
243 al clerk, taking his receipt therefor. Any failure to do so shall
244 be deemed a misdemeanor, and the offender, upon conviction,
245 shall be fined not less than twenty-five nor more than one hun-
246 dred dollars, and in addition thereto may be confined in the
247 county jail for a period of thirty days at the discretion of the
248 court.

249 If for any reason the city clerk of said municipality is dis-
250 qualified or unable to act as registrar for the whole or any part
251 of the period allowed for the registration of the voters in this
252 section, it shall be the duty of the council to appoint some
253 elector of said city who shall act as registrar during such time
254 as the clerk is disqualified or unable to act as such registrar.
255 Such elector shall immediately qualify as registrar by taking
256 the same oath, and shall perform the same duties, and be liable

257 to the same penalties for breach of duty as herein provided for
258 said clerk in acting as such registrar.

Sec. 28. The council of said city shall have the following
2 general powers, and may provide by ordinance and resolutions for
3 the exercise and enforcement of the same, namely:

4 To lay off, open, close, vacate or maintain public grounds,
5 parks and public places, and name and re-name the same.

6 To regulate the planting, trimming and preservation of
7 shade trees by persons and corporations in streets, alleys, roads,
8 public grounds and places, and to provide for the planting, re-
9 moval, trimming and preservation of such trees and other orna-
10 mental shrubbery by the municipality.

11 To declare as public nuisances any trees, shrubbery, etc.,
12 growing on private property within said city, the roots of which
13 clog or choke any public sewer belonging to said city, or damage
14 the streets or sidewalks of said city, and provide for the removal
15 or destruction of said trees or shrubbery.

16 To establish, maintain and regulate free public libraries and
17 reading rooms, and to purchase books, papers, maps and manu-
18 scripts therefor, and receive donations and bequests of money or
19 property for the same, in trust or otherwise, and to provide for
20 the rent and compensation for the use of any existing free pub-
21 lic libraries established or managed by private corporation or as-
22 sociation organized for that purpose.

23 To protect divine worship in or about the premises where
24 held.

25 To locate, lay off, close, open, alter, grade, straighten, widen,
26 narrow, vacate, pave, repave, construct and keep in repair bridges,
27 viaducts, under-grade crossings, roads, streets, alleys, sidewalks,
28 cross-walks, drains and gutters for the use of the public, or any
29 of the citizens thereof, and to improve and light the same, and
30 keep them clean and free from obstruction on or over them; *pro-*
31 *vided*, the municipality shall not be liable for or respond in dam-
32 ages for injury to persons or property caused by or from a defect
33 or obstruction in or on the plat of ground between the gutter or
34 curb of any street and the paved or plank sidewalk extending
35 there along, or between any such sidewalk and the property lying
36 next adjacent thereto, unless the municipality had actual notice
37 of such defect or obstruction prior to the time of the injury com-
38 plained of.

39 To enter into a contract with any internal improvement com-

pany for the joint ownership of any bridge erected by the municipality and such improvement company, upon such terms as may be prescribed in the contract between them, but such bridge or bridges shall be in a public highway, and the interest of the company shall only be such proportionate part thereof as it may pay for, or that may be named in the contract.

To regulate the width of sidewalks and streets, and the width and care of public grounds or grass plots abutting thereon, and to order the sidewalks, footways, cross-walks, drains and gutters to be curbed and paved, or repaved and kept in good order, free and clean, and to provide for the removal of ice and snow therefrom and for sprinkling the same, by the owners or occupants of the real estate next adjacent thereto.

To regulate the use of walks, highways and bridges and the rate of speed or travel thereon, and to prevent and punish for fast driving or riding thereon of any horse, bicycle, wheeled vehicle, wagon, steam or electric or traction engine, motor car or automobile, and to prevent injury to or waste on such streets, alleys, roads or highways from overloaded or improperly loaded vehicles, and to regulate the speed of engines, trains or street cars within the corporate limits, and to require the employment of conductors on all such street cars.

To regulate the making of division fences and party walls by the owners of adjoining and adjacent premises and lots, and to regulate or require drainage by the owner of such lots or other real estate by the proper drains, ditches and sewers, and to fill and cause to be filled any lot below the established elevation or grade.

To regulate or prohibit street carnivals, street fairs or street parades, advertising exhibitions or other exhibitions thereon, or the exhibition of natural or artificial curiosities thereon.

To regulate or prohibit the ringing of bells, blowing of steam whistles, or use of hand organs or other musical instruments of an annoying character or other music of itinerant performers in the streets, roads, parks or public places of the municipality.

To license, regulate or prohibit auctioneering.

To license or prohibit the sale of goods, wares, merchandise, drugs or medicines on the streets or other public places.

To impose a license tax on persons keeping for hire automobiles, carriages, hacks, buggies, wagons, or for carrying for hire

82 persons or baggage in such vehicles, and to regulate the charge
83 for such service within the corporate limits of said city.

84 To establish and regulate hack stands and stands for auto-
85 mobiles, coaches, cabs and omnibuses kept on the streets for hire.

86 To regulate, assess and collect a license fee for the use of
87 the municipality on anything or business for which a state license
88 is required, subject to the exemption as provided in chapter thir-
89 ty-two of the code.

90 To establish, locate and keep in repair market places and
91 market houses, and regulate markets, prescribe the time for hold-
92 ing the same and to authorize the seizure thereat and destruction
93 of any and all such foods and drink products as shall be found
94 unwholesome, dangerous or offensive, and without recourse against
95 the municipality for its cost or value.

96 To regulate the sale of all food or drink products, milk, fresh
97 meats, fish and vegetables, and provide for inspection of the same.

98 To appoint market masters and invest them with power to
99 make arrests for the violation of the municipal ordinances or reg-
100 ulations.

101 To regulate and provide for the weighing of hay, coal and
102 other articles for sale in the markets.

103 To prevent injury or annoyance to the public or individ-
104 uals from anything dangerous, offensive or unwholesome, and to
105 prevent and regulate the distribution by canvassers, agents or
106 other persons of sample packages of drugs, medicine, powders,
107 paint or other articles which may be dangerous or unwholesome
108 for children.

109 To regulate or prohibit the keeping, handling and transpor-
110 tation of explosives and dangerous combustibles within the mu-
111 nicipality.

112 To regulate or prohibit the erection or maintenance of in what
113 council deems an improper locality within the municipality, any
114 blacksmith shop, livery stable, cow house, cattle pen, poultry
115 house, pig pen, privy, bill board, sign board, gas or other en-
116 gine, or the use of walls and walks for signs, and to abate by sum-
117 mary proceedings whatever in the opinion of the council is a nui-
118 sance.

118-a To regulate or prohibit the distribution of hand-bills, circu-
118-b lars and other advertisements of like kind on the streets, roads,
118-c alleys and public places, or in private yards or buildings, without

118-*d* first having procured the consent of the owner or occupier
118-*e* thereof.

119 To prohibit within the municipality or within one mile of
120 its corporate limits the erection or maintenance of any slaugh-
121 ter house, soap factory, glue factory, lampblack factory, tannery
122 or other house, shop or factory of like kind or character.

123 To establish, regulate and maintain baths and bath houses,
124 drinking fountains, water troughs and public toilet stations and
125 free public band concerts, and to regulate the time and place of
126 bathing in pools, streams and public waters within the police
127 jurisdiction of the municipal corporation.

128 To prevent hogs, cattle, sheep, horses and other animals
129 and fowls of all kinds from going at large in the municipality
130 and to establish and maintain places for their detention, to make
131 regulations respecting the keeping and sale of same, and to ap-
132 point a pound master and define his duties.

133 To arrest, convict and punish any person for keeping an
134 assignation house, house of ill-fame, or for leasing or letting to
135 another person any house or other building for the purpose of
136 being used or kept as an assignation house or house of ill-fame,
137 or for knowingly permitting any house owned by him or under
138 his control to be used as an assignation house or house of ill-
139 fame or loafing, boarding or loitering in a house of ill-fame, or
140 frequenting the same.

140-*a* To arrest, convict and punish any person for importing,
141 printing, publishing, selling or distributing any book, picture
142 or device or other thing containing obscene language or picture
143-144 or making indecent representations.

145 To restrain and punish vagrants, mendicants, beggars,
146 tramps, common prostitutes and their associates, and drunken
147 and disorderly persons within the municipality, and to provide
148 for their arrest and manner of punishment.

149 To establish a board of health and invest it with the neces-
150 sary power to attain its object.

151 To establish quarantine and to erect and maintain pest
152 houses and places of detention, and to make and enforce neces-
153 sary orders for controlling or preventing the spread of infectious
154 and contagious diseases, and for abating pestilence.

155 To prohibit and punish by fine the bringing into the corpo-
156 rate limits by railroads or other carriers, persons who are pau-
157 pers, or persons afflicted with contagious diseases, or to punish

158 by fine, or by fine and imprisonment, any person so bringing
159 within the corporate limits such pauper or diseased person.

160 To provide for the poor of the municipality, and to that
161 end the municipality may contract with the county court of
162 Randolph county for keeping such poor at the county poor
163 house at a price and on such terms as may be agreed upon be-
164 tween the county court and such municipal authorities.

165 To authorize the taking up and provide for the safe keep-
166 ing and education, for such periods of time as may be deemed
167 expedient, of all children who are destitute or are without proper
168 parental or other care and who are growing up in mendicancy,
169 ignorance, idleness or vice.

170 To arrest, convict and punish any person for cruelty, unnec-
171 sarily or needlessly beating, torturing, mutilating, killing, or
172 overloading, overdriving or wilfully depriving of necessary sus-
173 tenance, any horse or other domestic animal.

174 To restrain fraudulent practices within the municipality.

175 To arrest, convict and punish any person for gambling or
176 keeping any gaming table, commonly called faro bank, table and
177 chips used in playing such game; crap table or chips used in
178 playing such game; or roulette or the wheel or chips used in
179 playing such game; or keno table or table of like kind or device
180 used in playing the same; or table of like kind under any de-
181 nomination, whether the game or games be played with cards,
182 dice or otherwise, or any person who shall be a partner, or con-
183 cerned in interest in the keeping or exhibiting of such gaming
184 table, faro bank table, or chips, roulette table or chips, crap ta-
185 ble or chips, keno table or devices, or keeping or maintaining
186 any gambling house or place, or betting or gambling for money
187 or anything of value, and to destroy such gambling parapher-
188 nalia as may be found in use on any such premises.

189 To restrain all felons and persons guilty of offense against
190 this state or the United States and deliver them over to the au-
191 thorities or court having jurisdiction of the offense whereof such
192 person is accused.

193 To apprehend and punish any person, who, without a state
194 license therefor, is guilty of carrying about his person within
195 the municipality any revolver or other pistol, dirk, bowie knife,
196 slungshot, razor, billy, metallic or other false knuckles, or any
197 other dangerous or deadly weapons of like kind and character,
198 as provided by chapter fifty-one of the acts of the legislature of

199 one thousand nine hundred and nine, and the punishment there-
200 for, whether for the first or other offense, shall be that pre-
201 scribed by said chapter for any such person guilty under the
202 misdemeanor clause provided therein, but the place of confine-
203 ment of such guilty person may be in the jail or lockup of the
204 municipality in lieu of the county jail; *provided*, that the mayor
205 of the municipality or other person exercising the functions of
206 his office, may, in his discretion, decline to inflict the punish-
207 ment herein mentioned, and instead thereof may require or hold
208 such guilty person to answer an indictment by the grand jury
209 of Randolph county for the violation of such law; and it shall
210 be the duty of the prosecuting attorney of said county, when re-
211 quested by the mayor of the municipality, to appear and prosecute
212 such offending person before such mayor; *provided, further*,
213 that regularly appointed police officers of the municipality,
214 whose services are rendered to and paid for by the municipality,
215 shall not be required to give bond, or any bond, provided by
216 said chapter fifty-one of the acts of the legislature of one thou-
217 sand nine hundred and nine.

218 To provide in or near the corporate limits of the munici-
219 pality a cemetery or other place for the burial of the dead, and
220 to regulate interments therein, and to guard and police the
221 same, and to provide for the cremation and incineration of dead
222 human bodies when from the nature of the malady or pestilence
223 from which death ensued, the municipal board of health may
224 direct.

225 To regulate the erection, construction, alteration and repair
226 of dwelling houses, buildings and other structures within the
227 municipality and to compel the numbering of the same by the
228 owners or occupants thereof.

229 To regulate by license and otherwise, plumbers, electricians,
230 sewer tappers and vault cleaners.

231 To regulate the hanging of doors and construction of
232 stairways, elevators and fire escapes in theatres, churches, school
233 buildings, factories and other places where many persons are re-
234 ceived at one time, and to require the construction of fire escapes
235 in such buildings.

236 To establish fire limits, and to regulate the construction of
237 buildings and designate material to be used in the construction
238 of buildings within such limits.

239 To regulate the building of fire walls, fire places, chimneys,
240 boilers, smoke stacks and stove pipes.

241 To take down and remove, or make safe and secure, any and
242 all buildings hereafter erected, and require the alteration and
243 repair of any by the owners thereof, that are or may become
244 dangerous, or to require the owners or their agents to take down
245 and remove them or put them in a safe and sound condition at
246 their own expense.

247 To regulate the height, construction and inspection of all
248 new buildings hereafter erected, and the alteration and repair of
249 any buildings now or hereafter erected in the municipality, and to
250 require permits to be obtained of the municipality for such build-
251 ings and structures, and the repair and alteration thereof, and
252 that plans and specifications thereof be submitted to the council
253 or some person designated by it.

254 To regulate the limits within which it shall be lawful to
255 erect any steps, porticos, bay windows, bow windows, show win-
256 dows, awnings, signs, columns, piers or other projection or struc-
257 tural ornaments of any kind for the houses or buildings on any
258 street.

259 To provide for the prevention and extinguishment of fires,
260 and for this purpose to organize, equip and govern fire companies,
261 and to prescribe the powers and duties of such companies and de-
262 partment, and of the several officers therefor, and to impose on
263 those who fail to obey any lawful command of the officer in
264 charge of such company any penalty which the council is author-
265 ized to impose for violation of an ordinance, and to give author-
266 ity to such fire officer to direct the pulling down of any building
267 or the destruction of any fence, wall, building or other thing if
268 such officer deem it necessary to prevent the spreading of fire.

269 To protect the persons and property within the corporate
270 limits, and to preserve the peace and good order therein, and for
271 this purpose to appoint, when necessary, a police force and such
272 other officers as may be deemed necessary.

273 To prescribe the powers and define the duties of the officers
274 appointed under corporate authority, fix their terms of service and
275 compensation, if not otherwise prescribed in this chapter, and to
276 require and take from them bonds, when deemed necessary, pay-
277 able to the state of West Virginia or the city of Elkins, with such
278 sureties and in such penalties as may be prescribed, conditioned
279 for the faithful discharge of their duties.

280 To erect, authorize or prohibit the erection of power plants,
281 heating plants, gas works, electric light works or water works in
282 the municipality, and to erect, purchase, own or lease and main-
283 tain within or without the corporate limits of the municipality
284 such gas works, electric light, power works, water works and reser-
285 voirs to supply the municipality or its inhabitants water,
286 light, heat or power, and to prevent injury to the same or the
287 pollution of the water or to impair the healthfulness thereof,
288 and may acquire land for said purposes by purchase, lease or con-
289 demnation.

290 To grant, by ordinance or franchises, for periods not exceed-
291 ing twenty-five years, the use of its streets, roads, alleys and pub-
292 lic places, to lay pipes, conduits, manholes, drains, and other neces-
293 sary fixtures and appliances, to be used for supplying the munici-
294 pality and its inhabitants with steam or hot water, or both, for
295 heat and power purposes, or both, or for illuminating purposes,
296 and to grant by ordinance or franchise, for periods of not ex-
297 ceeding twenty-five years, the use of its streets, roads, alleys and
298 public places for the construction of movable or rolling roads for
299 the conveying or moving of passengers, freight and other property,
300 and those in charge of the same, upon such terms and conditions
301 as may be prescribed, providing that no ordinance granting any
301-a such franchise shall become effective until approved by a vote of
301-b the people at a special of general election.

302 To grant by ordinance or resolution permits for the tempor-
303 ary use of its streets, roads, alleys and public places for the con-
304 struction of moving or rolling roads for the conveying or moving
305 of passengers, freight, vehicles, animals or other property, upon
306 such conditions as may be prescribed.

307 To provide a revenue for the municipality and appropriate the
308 same to its expense; and to cause to be assessed and collected in
309 each year an *ad valorem* tax, within the limits of the general tax
310 laws of the state, on all property in the municipality subject to
311 state and county taxes, as valued and returned for such taxation
312 by the county assessor.

313 To levy an annual capitation tax of not more than two dollars
314 upon each male resident of the municipality who has attained the
315 age of twenty-one years, and from which persons afflicted with
316 bodily injury and those having attained the age of fifty years shall
316-a be excepted.

317 To provide for the collection of said capitation tax at the

318 time, and in the manner as the regular capitation tax is collected,
319 which may be done either through the county assessor or by any
320 other person designated by the municipality; but if the county
321 assessor or other person than city assessor, he shall give such bond
322 as may be required by the council before making such collection.

323 To issue and sell bonds in the manner provided by general
324 laws governing the same, and in addition to other taxes, to levy
325 for the maintenance of a sinking fund where such bonds have been
326 issued and are unpaid, and to control such sinking fund and to
327 make temporary loans thereof, or to make temporary investments
328 thereof, or of any specific fund for the time such fund can not be
329 advantageously used for the purpose for which it was levied and
330 collected.

331 To provide for the rent and compensation for the use of any
332 existing free public hospital, established or managed by a private
333 association or corporation organized for that purpose.

334 To provide for the removal and abatement of nuisances; and
335 to carry out and enforce sanitary regulations.

336 To compel the attendance at public meetings of the members
337 of the council, or other body exercising their respective functions.

338 To buy, lease and operate, either within or without the
339 municipality, stone quarries, crushers and land for said purposes,
340 for the purpose of furnishing a supply of stone or other material
341 suitable for macadamizing or paving the streets, sidewalks and
342 alleys, and improving public property.

343 To regulate the running of steam and electric cars over and
344 across any street or alley, and when deemed proper by the coun-
345 cil, it may by resolution require any railroad company or street
346 car company to provide at its own expense suitable watchmen at
347 any crossing of any street or alley during such hours as may be
348 designated by the council, or otherwise regulate such crossings
349 in order to protect persons walking or driving over them.

350 Whenever in the opinion and judgment of the council of the
351 municipality it is necessary, it shall have power to construct such
352 sewers as in its opinion and judgment are needful for the com-
354 fort, health, safety and welfare of the inhabitants of said munici-
355 pality or of the public, and may construct such sewers at such
356 places within or without the corporate limits, and in such man-
357 ner as in the opinion and judgment of said council may be proper;
358 but so far as practicable, shall construct such sewers under the
359 streets, alleys or roads of the city; and whenever in the opinion

360 and judgment of said council any street or alley of said city
361 should be paved or repaired with brick, or other suitable substance
362 for paving purposes, the said council may cause the same to be
363 paved in such manner as in the opinion and judgment of the coun-
364 cil is most suitable for the purpose, and whenever in the opin-
364-a ion and judgment of the council any sidewalks or foot-
365 walks of stone, brick, cement or other suitable substances,
366 are necessary or beneficial, and for the best interest of the
367 inhabitants of said city, the council may order the same to
368 be constructed in such manner and of such material as in the
368-a opinion and judgment of the council are most suitable for
369 the purpose, and for the purpose of paying the expenses and cost
370 of any such sewer, paving, sidewalks or footwalks, the said council
371 may levy a special assessment for the cost thereof against the real
372 estate benefitted thereby which bounds or abuts thereon, and may
373 cause such special assessment with interest thereon after thirty
374 days from the levying of such assessment, at the rate of six
375 per cent. per annum, to be collected as city taxes are collected
376 against real estate in said city, as provided in chapter one hun-
377 dred and fifty-one of the acts of nineteen hundred and one,
378 and as provided for the collection of state taxes assessed against
379 real estate in said city, but in the case of any sewer constructed
380 under and along any street, alley or road, or in case of any pave-
381 ment constructed upon any street or alley, the bounding or abut-
382 ting real estate on each side of the street or alley shall only be
383 held liable to pay one-third of the cost of such sewer or pavement,
384 and the residue of the cost thereof shall be paid out of the city
385 treasury; and in case of any sidewalks or footwalks, the real estate
386 next adjacent thereto shall be held liable to pay the whole cost of
387 such sidewalks or footwalks. *Provided*, that in case of the con-
388 struction of any sewer, the amount to be assessed against the abut-
389 ting property shall be ascertained by taking one-third of the total
390 costs of such sewer including mains and laterals on all the streets
391 or alleys or through private property which enter into such mains,
392 and together make one complete sewer line, and from one-third
393 of the total cost and total length of such sewer, the cost per foot
394 shall be ascertained. This sum shall then be multiplied by the
395 number of feet any lot abuts thereon which is liable to assesment
396 under this act, and the amount so ascertained shall be assessed
397 against the abutting property as hereinbefore provided, but no lot
398 already having sewer service shall be assessed with any portion of

399 the cost of any new sewer unless the owner of such lot desires to
400 connect with such new sewer. And whenever any assessments for
401 the cost of construction of any paving on any street or alley of
402 said city, heretofore or hereafter levied, have been or may here-
403 after be adjudged by the council of said city or by any court of
404 this state having jurisdiction, invalid, because of any error or
405 irregularity in the mode or manner of assessment, or lack of
406 authority in said city to levy such assessments at the time they
407 were levied, or failure of the council of said city to comply with
408 some requirement of the law relative to such assessments, or fail-
409 ure to procure the petition of the property owners provided for in
410 section thirty-four of chapter forty-seven of the code of this state,
411 when such petition was necessary to the validity of such assess-
412 ments, the council of said city shall have power, at any regular
413 meeting, or special meeting called for the purpose, to re-assess
414 the cost of such paving against the real estate benefited thereby
415 and abutting thereon, in the same manner and proportion as here-
416 inbefore provided for the assessment of the cost of paving in the
417 first instance; except before proceeding to make such re-assess-
418 ment, it shall be the duty of said council to give notice to all per-
419 sons interested, by publication for two successive weeks in two
420 newspapers of opposite political faith published in said city, of
421 the time and place of such meeting, and the purpose thereof in re-
422 lation to such reassessment. At which meeting, after a full hear-
423 ing, the council may proceed to re-assess against the real estate,
424 as hereinbefore provided, the cost of the said paving, which, when
425 so reassessed, shall be a lien enforceable against said real estate,
426 and shall be collected, with interest thereon at six per cent. per
427 annum, after thirty days from said re-assessment, as is herein-
428 before provided for the enforcement and collection of assessments
429 for paving, generally; *provided*, that nothing herein shall be con-
430 strued to authorize the said city council to re-assess the cost of
431 any paving which has been constructed, and the original assess-
432 ment therefor levied for more than fifteen years, prior to the pass-
433 age of this act, and unless said city, since the construction there-
434 of, has maintained and is still maintaining same at its expense;
435 *provided, further*, that nothing contained herein shall be con-
436 strued to authorize the council of said city to re-assess upon any
437 real estate the cost of any paving, when the original assessment
438 against such real estate was paid by the owner thereof, and when-
439 ever any part of the original assesment against any real estate

440 was so paid, the council shall re-assess against such real estate
441 only the residue of its proportionate share of the cost of said
442 paving, after crediting thereon the amount so paid.

443 The said city council is hereby given full right and authority
444 to require any person or lot owner in said city to connect a sewer
445 leading from his or her house or lot into any public sewer which
446 is located in any public street or alley adjoining the same, and if
447 such house or lot owner fails or refuses so to do after having
448 been given reasonable notice, the said council may enter upon
449 said lot and construct such sewers and may levy the actual cost
450 thereof against the lot upon which the same is built and collect
451 such cost from the owner of such lot in the same manner as city
452 or state taxes are collected.

453 The council shall have authority to pass all ordinances not
454 repugnant to the constitution and laws of the United States,
455 and of this state, which shall be necessary or proper to carry into
456 full effect and power, authority and capacity, the jurisdiction
457 which is or shall be granted to or vested in the said city, or in
458 the council, or in any officer or body of officers of said city, and
459 to enforce any or all their ordinances by reasonable fines and
460 penalties, and by imprisoning the offender or offenders, and upon
461 failure to pay any fine or penalty imposed may compel the offender
462 to labor without compensation at and upon any of the public
463 works or improvements undertaken or to be undertaken by said
464 city, or to labor at any work which the said council may lawfully
465 employ upon at such a reasonable rate per diem as the council
466 may fix, until any fine or fines and costs imposed upon any such
467 offender by said city have been fully paid and discharged, after
468 deducting reasonable charges of support while in the custody of
469 the officers of the city; *provided, however*, that no fine shall be im-
470 posed exceeding one hundred dollars and costs, and that no per-
471 son shall be imprisoned or compelled to labor as aforesaid for
472 more than one hundred days for any one offense. And in all cases
473 where a fine is imposed for an amount exceeding ten dollars
474-5 and costs, or a person be imprisoned or compelled to labor as
476 aforesaid for a term greater than ten days, an appeal may be
477 taken from such decision upon the same terms and conditions
478 that appeals are taken from the judgment of a justice of this
479 state. Such fines and penalties shall be imposed and recovered,
480 and such imprisonment inflicted and enforced, by and under
481 the judgment of the mayor of said city; or, in case of his absence

482 or inability to act, by the clerk of said city, or if he be unable to
483 act, then by any member of the council to be appointed by the
484 council for that purpose; and for his services in trying cases,
485 whether civil, criminal or infractions of the ordinances of the
486 city, the mayor shall be entitled to receive such fees as are paid
487 to justices of the peace for similar services, but in cases of infrac-
488 tions of the ordinances of the city the mayor shall not be paid
489 such fees unless they are collected from the defendant, and in
490 all cases the chief of police shall be entitled to receive such fees
491 as are paid to constables for similar services, except that for
492 cases for the infraction of the ordinances of the city he shall not
493 receive such fees unless collected from the defendant; and *pro-*
494 *vided, further,* that the fees for making any arrest shall be one
495 dollar, to be paid to the officer making the arrest, whether such
496 officer be the chief of police or other officer, if collected from the
497 defendant, but not otherwise.

Senate Bill No. 1

AN ACT to establish a county high school in the county of Wirt, upon
a site to be selected by the board of directors, and to provide for
the laying of levies for the erection of a building for said high
school, and for the maintenance thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. That a high school be and the same is hereby
2 established in the county of Wirt, state of West Virginia, in or
3 near the town of Elizabeth, which shall be known as the "Wirt
4 county high school," the site for which shall be selected by the
5 board of directors of said school, which said board of directors
6 shall consist of three members, composed of the county superin-
7 tendent of schools of said county of Wirt, who shall be *ex-officio*
8 a member and president thereof; one member who shall be ap-
9 pointed by the state superintendent of free schools, after said spe-
10 cial election provided for herein, whose term of office shall be four
11 years and serve until his successor is appointed and qualified; and
12 one member who shall be elected at the special election provided
13 for herein and serve until his successor is elected and qualified.
13-a His successor shall be elected at the next general election and serve

14 four years, or until his successor is elected and qualified. After
15 the first election provided for the term of office shall begin the
16 first day of January following the election of said member. No
17 two members of this board shall be residents of the same magis-
18 terial district.

Sec. 2. The said board of directors, as heretofore consti-
2 tuted, shall have full power and authority to make such rules and
3 regulations as it may deem proper and necessary for the manage-
4 ment and control of said high school; employ necessary teachers
5 and fix the salaries of the same; establish a graded course of study
6 and grant diplomas upon graduation of pupils, and perform such
7 other duties as are necessary and essential to the welfare and
8 maintainance of said high school; and shall elect a secretary
9 and prescribe the duties and compensation of the same.

Sec. 3. Said board of directors shall be a body corporate,
2 and as such may sue and be sued, contract-and be contracted with.
3 and shall receive, hold and dispose of, according to the usual form
4 of law and the instrument conferring titles, all gifts, grants or
5 devises made for the use of such high school, and shall be deemed
6 the owner of all property belonging to said high school, and shall
7 be liable for all claims which may legally exist against it.

Sec. 4. For the purpose of procuring proper grounds, and
2 for erecting and equipping suitable buildings thereon for said
3 high school, said board of directors may lay a levy of not exceed-
4 ing twenty cents on the one hundred dollars valuation of property
5 for taxable purposes for the year following the adoption of this
6 act as hereinafter provided for, and for the next year following;
7 and not to exceed two cents on the one hundred dollars valuation
8 for such purposes for each subsequent year thereafter; and for
9 maintaining said school said board of directors shall lay a levy,
10 not to exceed seven cents on the one hundred dollars valuation for
11 each year thereafter.

Sec. 5. The qualifications for admission to said county high
2 school shall be subject to such regulations as may be prescribed
3 by the said board of directors.

Sec. 6. All revenue from taxation as provided herein shall
2 be collected and disbursed by the sheriff of said county in the man-
3 ner provided by general law.

Sec. 7. The members of said board of directors shall be
2 allowed a compensation of three dollars per day for their services

3 for the time they are actually employed in transacting the business
4 of said high school, not to exceed ten days in any one year.

Sec. 8. But before this act shall take effect, it shall be
2 submitted to the voters of Wirt county at a special election ordered
3 by the county court of said county of Wirt, and general notice
4 of said election shall be published in two newspapers of opposite
5 politics and general circulation in said county, for four succes-
6 sive weeks preceding said election, if there be two such news-
7 papers that will publish the same at the legal rate for such pub-
8 lications; but if there be no such newspapers that will publish
9 such notice at such rate, then such notice may be posted at three
10 of the most public places in each magisterial district in said county
11 for a like period of time.

12 Said county court shall provide a ballot bearing the names
13 of the candidates for members of said board of directors and also
14 bearing thereon the words "For county high school," and
15 "Against county high school," and if a majority of the votes
16 cast at said election be in favor of said county high school, then
17 this act shall be of binding force and effect from the time of the
18 official announcement of said vote. Said election shall be con-
19 ducted in the manner provided by law for the conducting of
20 general elections. If this act should fail to carry at such special
21 election it may be re-submitted at the next general election fol-
22 lowing.

Senate Bill No. 34

AN ACT to amend and re-enact section nine of chapter twenty-nine of the acts of the legislature of West Virginia, of one thousand nine hundred and seven, concerning the salary of the judge of the criminal court of Raleigh county, West Virginia.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine, section nine, of the acts of the

legislature of West Virginia, of one thousand nine hundred and seven, be amended and re-enacted so as to read as follows:

Section 9. The judge of the said court shall for his services receive not less than twenty-five hundred dollars, nor more than three thousand dollars per annum, to be paid out of the county treasury of the said county of Raleigh, in the same manner as the salaries of the other county officers are paid; and he shall be disqualified from practicing law in all of the courts in this state, during his continuance in office.

Senate Bill No. 102

AN ACT to amend and re-enact section six (serial section five thousand five hundred and twenty-two) of chapter one hundred and fifty-six of the code of West Virginia of one thousand nine hundred and thirteen, as amended and re-enacted by chapter seventy-nine of the acts of the legislature of one thousand eight hundred and eighty-two, concerning bail.

Be it enacted by the Legislature of West Virginia

Section 6. A justice may let to bail a person who is charged with, but not convicted of, an offense not punishable with death. If the offense be punished by confinement in the penitentiary, he shall not admit such person to bail in a less sum than five hundred dollars. But a justice shall not admit any person to bail if bail has been previously refused to such person by any court or judge; nor shall any person confined in jail by an order of commitment in which the amount of bail he is to give is specified, or where an order has been made by a court or judge fixing the bail such person is to give, be admitted to bail by a justice in a less sum than is specified in such order. But a circuit court, or supreme court of appeals, or a judge of either of said courts, in vacation, may, for good cause shown, admit any person to bail before conviction, or after conviction, except a conviction for offenses where the penalty is confinement in the penitentiary for life, or death, and during the suspension of the execution of the judgment of conviction or pending an appeal or writ of error, and may, by order, direct the clerk of the circuit court of the county in which the offense is charged

20 to have been committed to take the bond with good security in
21 such a sum as the court or judge may fix in said order; *provided*,
22 that in cases where bail has been allowed, after conviction as
23 aforesaid, the condition of the recognizance, or bond, shall be,
24 that the accused shall appear before the said circuit court at its
25 first regular term after the appellate court shall have rendered
26 its final order or judgment, upon said writ of error, appeal, or
27 supersedeas, and submit himself to such order or judgment, and
28 to be further dealt with according to law.

Senate Bill No. 232

AN ACT to re-enact section four thousand seven hundred of the West Virginia code of one thousand nine hundred and thirteen, regulating the practice of law and the manner of licensing attorneys-at-law, who have been admitted to practice in other states and territories and in the District of Columbia, to practice in this state.

Be it enacted by the Legislature of West Virginia:

That section four thousand seven hundred of the code of West Virginia be amended and re-enacted so as to read as follows: .

Section 4700. Any person duly authorized and practicing as
2 counsellor or attorney at law in any state or territory of the
3 United States, or in the District of Columbia, may practice as
4 such in the courts of this state, as a visiting attorney upon pro-
5 ducing before the courts in which he intends to practice satis-
6 factory evidence of his being so authorized. But this section shall
7 not be construed as allowing such counsellor or attorney to
8 practice law in this state, as a resident counsellor or attorney on a
9 license granted by another state, or territory, or by the District
10 of Columbia. A counsellor or attorney at law licensed to prac-
11 tice as such under the laws of another state, territory or the
12 District of Columbia, who shall desire to practice law in this
13 state as a resident counsellor or attorney therein shall, before
14 attempting to practice law in this state, after he becomes a resi-
15 dent thereof, submit to the same examination and be licensed
16 and admitted under the same rules and regulations, including
17 proof of good character, as are now required of persons seeking

18 to be licensed under the laws of this state. But nothing in this
19 act contained shall be construed as affecting the rights or status of
20 lawyers admitted to practice in this state, at or before the time
21 this act takes effect.

Senate Bill No. 14

AN ACT authorizing the county courts, or tribunals created in lieu thereof, to provide depositories for public money; requiring the treasurers of county, district and other funds, and collectors of state, county and district funds to deposit the same therein, and making general provision in respect thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of each county, by order of record, shall designate, in the manner hereinafter provided, a bank, or banks, or trust companies situated in the county and duly incorporated under the laws of this state, or organized under the laws of the United States, as a depository or depositories of public moneys; *provided*, that in any county where no such bank or trust company exists, or where such bank or banks fail, refuse or neglect to comply with all the provisions and conditions of this act, the county court shall designate any other convenient bank, or banks, or trust companies incorporated under the laws of the state, or organized under the laws of the United States, located and doing business in the state; and, *provided, further*, that no such depository shall have on deposit at any time more than one hundred thousand dollars of public moneys. A depository to be eligible for designation hereunder must be such bank or trust company as is described in this section.

Sec. 2. Not later than July one, one thousand nine hundred and sixteen, and every two years thereafter the sheriff of every county shall file with the county court, or tribunal in lieu thereof, a statement in writing naming one or more banks or trust companies within his county in which he desires to deposit public funds, and thereupon and within twenty days thereafter the county court shall designate the same county depository or depositories; *provided*, said bank, banks or trust companies, comply with all the provisions and requirements of this act. If the banks or trust

10 companies named in said statement filed by the sheriff do not
11 comply with the requirements and provisions of this act, then the
12 county court shall designate any other bank, banks or trust
14 companies within the county as county depository or depositories,
14 when they comply with all the requirements and provisions of this
15 act.

16 If there are no banks or trust companies within the county
17 eligible for county depository or depositories, or if eligible to be
18 designated as such, either decline to be designated, or if designated,
-9 fail, refuse or neglect to comply with the requirements and pro-
20 visions hereof, then the sheriff shall file with the county court a
21-22 statement naming one or more banks or trust companies conven-
23 ient to his county within the state in which he desires to deposit
24 the public funds; thereupon, the county court shall designate the
25 same county depository or depositories; *provided*, said bank, banks,
26 or trust companies comply with all the requirements and provis-
27 ions of this act. If the banks or trust companies named in said
28 statement filed by the sheriff do not comply with the requirements
29 and provisions of this act, then the county court shall designate
30 any other bank, banks or trust companies convenient to the county,
31 and within the state, as county depository or depositories, when
32 they comply with all the requirements and provisions of this act.

33 Risk and expense of making deposits in county depositories
34 located outside of the county seat, shall be borne by the bank, or
35 banks, or trust companies in which the deposits are made.

Sec. 3. If the sheriff shall fail or neglect to file the state-
2 ment provided for by the second section hereof, by the time pro-
3 vided in said section, naming eligible county depository or deposi-
4 tories, then the county court shall name some bank, banks, or trust
5 companies within the state as county depository or depositories.
6 The depositories named by the county court shall be located in
7 the county, if any therein eligible and willing to comply with the
8 requirements and provisions of this act. When any bank or trust
9 company has been named by the county court as provided for by
10 this section, and has complied with all the requirements and pro-
11 visions of this act, the court shall designate it a county depository.

12 The county court of any county may be required by mandamus
13 to comply with the requirements of this act, upon the petition of
14 any citizen and taxpayer of the county, or any officer charged with
15 the duty of enforcing compliance with the laws relating to the col-
16 lection and disbursement of public moneys.

Sec. 4. No such designation shall be binding on such county,
2 nor shall any public money be deposited thereunder until the hy-
3 pothecation of the bonds provided for in section seven of this act,
4 or until there is executed by the bank, or banks, or trust companies
5 designated, bond with good and sufficient sureties, to be accepted
6 and approved by the county court, payable to the state of West
7 Virginia, in such sum as the county court shall direct, and which
8 shall not be less than the maximum sum that shall be deposited
9 in the depository at any one time; such bond shall be executed by
10 at least four resident freeholders as sureties; or, by a fidelity or
11 indemnity company authorized to do such business within the state,
12 satisfactory to, and acceptable by the county court, and having not
13 less than one hundred thousand dollars capital; and such bond
14 shall be conditioned for the receipt, safe-keeping and payment over
15 of all money which may be deposited in or come under the custody
16 of the bank or trust company designated a county depository un-
17 der the provisions hereof, together with the interest thereon at
18 the rate specified by this act; and such bond shall be further condi-
19 tioned for the faithful performance by the bank or trust company
20 so designated, of all the duties imposed by this act upon a deposi-
21 tory of public moneys. An action shall lie on such bond at the in-
22 stance of the county court, or the sheriff, for the recovery of any
23 money deposited in the depository, upon failure or default of the
24 depository to fully and faithfully account for and pay over any
25 and all public moneys deposited by the sheriff, and of all interest
26 earned and accrued thereon as required by this act.

Sec. 5. Such bond shall not be accepted by the county court
2 until it shall have been submitted to the prosecuting attorney, and
3 certified by him to be in due and legal form, and conformable to
4 the provisions of this act, which certificate shall be endorsed there-
5 on, and if any bank or trust company designated as aforesaid, fail
6 to execute bond as required hereby, to the satisfaction and accept-
7 ance of the county court, or fail to hypothecate the bonds, as pro-
8 vided in section seven of this act, within thirty days from the time
9 the designation is made, the county court shall designate other de-
10 pository or depositories in the manner hereinbefore provided.

Sec. 6. The bank, banks or trust companies designated in the
2 manner hereinbefore provided, shall, upon the acceptance by the
3 county court of the bond, or upon the hypothecation of the bonds as
4 provided for herein, be the depository or depositories of public

5 moneys, and remain such for two years, and until the bond of its
6 successor or successors is accepted by the county court; but the
7 county court, at any time it deems the same necessary, may require
8 additional security from a depository in such sum as the court shall
9 by order designate; and if a depository refuse, or neglect, for the
10 period prescribed by the court, to give such additional security, or
11 to comply with the provisions of this act, the court may order the
12 removal of the public moneys therefrom to some other depository,
13 and if no county depository is available at the time, then to some
14 reliable bank or banks or trust companies to be the depository
15 thereof temporarily. Such removal, and all other removals, or-
16 dered by the county court under the provisions of this act, shall
17 be made by order of record upon the check of the county treasurer,
18 countersigned by the county clerk, after ninety days notice to said
19 depository. In event any county depository shall cease to do busi-
20 ness, or shall suspend business, the county treasurer and county
21 court at once shall designate and approve, respectively, another
22 bank as a depository in place of the suspended depository. But, in
23 such event, and pending the designation and approval of another
24 depository (when there is no other approved depository in the
25 county) the treasurer shall deposit public funds coming into his
26 hands, in some reliable bank or trust company, eligible to be a
27 county depository, as a temporary depository, until a depository is
28 designated and approved in the manner herein prescribed.

29 If the money, in case of such removal, be deposited in a bank
30 designated as a depository, temporarily, such bank or trust com-
31 pany shall, before the receipt by it of any such money, enter into a
32 bond or hypothecate the bonds as required by this act; but if no
33 bank or trust company be so designated, the money shall be kept
34 in the county treasury, and steps at once taken by the county court
35 to create a new depository under this act.

Sec. 7. The county court may in lieu of the bond provided
2 for by preceding sections, accept as security for money deposited
3 as aforesaid, interest-bearing securities of the United States, or a
4 state, county, district or municipal corporation, the indebtedness
5 whereof does not exceed five per cent of the assessed valuation; the
6 face value of which shall not be less than the sum specified in sec-
7 tion four of this act as the amount to be named in the bond in lieu
8 of which such bonds are accepted; or they may accept such bonds
9 as partial security to the extent of their face value for the money
10 so deposited, and require bond for the remainder of the full

11 amount specified in said section, to be named in the bond, and in
12 the bond so required, such acceptance of bonds as partial security,
13 and the extent thereof shall be set forth. The hypothecation of
14 such bonds shall be by proper legal transfer as collateral to pro-
15 tect and indemnify by trust any and all loss in case of any default
16 on the part of the bank in its capacity as depository as aforesaid,
17 and such collateral shall be released only by order of record of
18 the county court when satisfied full and faithful accounting and
19 payment of all the moneys has been made under the provisions here-
20 of. The county court shall make ample provision for the safekeep-
21 ing of such hypothecated bonds, and the interest thereon when paid
22 shall be turned over to the bank or trust company, so long as it
23 is not in default as aforesaid.

Sec. 8. The treasurer upon receipt of a certified copy of the
2 order of the county court, showing that a depository or deposito-
3 ries have been designated and bond accepted in compliance with
4 the provisions of this act, and naming the depository or deposito-
5 ries shall deposit therein to the credit of the county treasurer, all
6 public money in his possession, except such as may be necessary
7 to meet current demands; and, thereafter, he shall make daily
8 deposits in the public depositories of all public money received
9 by him, except as hereinafter provided, the deposit of such money
10 to be made as early as practicable after the receipt or collection
11 thereof, and such money shall be payable by the depository only on
12 an order issued by the county court, or board of education after
13 said order has been endorsed by the treasurer directing payment
14 by the depository. If at any time the cash in hands of the treas-
15 urer is not sufficient to meet current demands, he is authorized
16 to withdraw sufficient cash from the depository to meet said cur-
17 rent demands, such withdrawal to be made by check drawn by
18 the treasurer, and countersigned by the county clerk. The said
19 current demands shall not be anticipated more than a week in ad-
20 vance. All moneys due the treasurer are to be drawn from the
21 depository on an order issued by the county court and endorsed
22 by the treasurer. At the end of each month the president and
23 clerk of the county court shall sign proper orders on the treasurer,
24 in his favor, to pay him the moneys due him. All moneys be-
25 longing to the state, or any municipality, shall be disbursed from
26 the depository on a check drawn by the county treasurer, payable
27 to the auditor of the state of West Virginia, or to the treasurer
28 of the municipality.

Sec. 9. All money deposited in any depository shall bear interest at the rate of three per cent. per annum, to be computed on daily balances, and such interest shall be placed to the credit of the county treasurer on the first day of each calendar month, or at any time when the account may be closed. When the interest is credited to the treasurer the depository shall, in writing, notify the clerk of the county court and treasurer, each separately, the amount thereof, before noon of the next business day, and all of such interest shall be credited to the general county fund by the clerk of the county court and treasurer.

Sec. 10. On the first business day of each month a county depository under the provisions of this act shall furnish to the clerk of the county court a written statement, showing the amount on deposit to the credit of the county treasurer at the close of each day of the preceding month, which statement shall be filed and kept in the office of the clerk of the county court, as part of the public records.

Sec. 11. The treasurer shall keep an account with each depository showing each deposit and disbursement; the depository upon payment of any order or draft drawn by authority of the county court or board of education on the treasurer, and endorsed by him for payment, or upon payment of any check drawn by the treasurer for the purposes herein authorized, shall cancel the same, showing clearly the payment thereof and the date of payment. The orders or drafts and checks so paid shall be delivered by the depository to the treasurer upon his demand, and the orders or drafts shall be by him preserved for settlement with the county court, and the checks shall be filed and preserved as part of the records of his office.

Sec. 12. The term "public moneys," as used in this act, shall include all money which by law the sheriff in his capacity as such, and as treasurer of the county and districts, is authorized to collect, receive and disburse for public purposes, including state, county, districts, school districts, independent school districts and municipalities. The term "county court," shall include all tribunals in lieu thereof.

Sec. 13. If any sheriff shall wilfully fail, refuse or neglect to comply with the requirements and provisions hereof, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding six months, or both, and shall forfeit his office.

6 When the sheriff shall have fully complied with all the provisions
7 of this act, he shall not be held personally liable on account of any
8 loss that the county or any district may sustain by reason of the
9 default or failure of any such depository that has given bond ap-
10 proved by the county court.

Sec. 14. It shall be unlawful for any sheriff or member of a
2 county court to demand or receive any gift, reward, token, or
3 thing of value from any county depository, or from any bank or
4 trust company, for naming, designating or accepting it as a county
5 depository. It shall also be unlawful for any person who is a
6 candidate for the office of sheriff, or member of a county court,
7 either for the nomination, or election to the office after nomina-
8 tion, to demand or receive any gift, reward, token, or thing of
9 value from any bank or trust company eligible for designation as
10 a county depository. Upon conviction for any violation of this
11 section, the person convicted shall be fined not more than five
12 hundred dollars or confined in the county jail not exceeding six
13 months, or both, at the discretion of the court, and in addition
14 thereto shall forfeit his office.

Sec. 15. The sheriff of the county shall receive, collect and
2 disburse all school money for the county and the several districts
3 therein. But, before receiving or collecting any such school money,
4 he shall give in addition to his bond as collector of the state and
5 county taxes, a bond with such security to be approved by the
6 county court or other tribunal in lieu thereof, in a penalty of not
7 less than twenty thousand nor more than one hundred thousand
8 dollars, said amount to be fixed by the county court or other tri-
9 bunal in lieu thereof.

10 Section one hundred and thirty-seven, chapter twenty-seven,
11 acts one thousand nine hundred and eight, relating to sheriffs'
12 bonds, as treasurer for school moneys, in so far as inconsistent
13 with this section, is hereby repealed.

Sec. 16. All acts or parts of acts inconsistent herewith are
2 hereby repealed. But this act shall not be effective until July first,
3 one thousand nine hundred and sixteen.

Senate Bill No. 57

AN ACT to amend and re-enact section six of chapter one hundred
and twenty-one of the code of West Virginia, relating to motions

for judgment for moneys due on contract, and to provide for sworn pleadings in connection with such proceedings.

Be it enacted by the Legislature of West Virginia:

That section six of chapter one hundred and twenty-one of the code of West Virginia, (serial section number four thousand seven hundred and twenty-six), be amended and re-enacted so as to read as follows:

Section 6. Any person entitled to recover money by action on any contract may, on motion before any court which would have jurisdiction in an action, otherwise than under the second section of the one hundred and twenty-third chapter of this code, obtain judgment for such money after twenty days' notice, which notice shall be returned to the clerk's office of such court fifteen days before the motion is heard. In any such motion, if the plaintiff shall file with his notice, and shall serve upon the defendant at the same time and in the same manner as the notice is served, an affidavit by himself, or his agent, stating distinctly the several items of the plaintiff's claim, and that there is, as the affiant verily believes, due and unpaid from the defendant to the plaintiff upon the demand or demands stated in the notice, including principal and interest, after deducting all payments, credits and sets-off made by the defendant, or to which he is entitled, a sum certain to be named in the affidavit, no plea shall be filed in the case unless the defendant shall file with his plea the affidavit of himself, or his agent, that there is not, as the affiant verily believes, any sum due by the defendant to the plaintiff upon the demand or demands stated in the plaintiff's notice, or stating a sum certain less than that stated in the affidavit filed by the plaintiff, which, as the defendant, or his agent, verily believes, is all that is due from the defendant to the plaintiff upon the demand or demands stated in the plaintiff's notice. If such plea and affidavit be filed by the defendant and it be admitted in such affidavit that any such sum is due from the defendant to the plaintiff, judgment may be taken by the plaintiff for the sum so admitted to be due, with interest thereon from the date of the plaintiff's affidavit until paid, and the case tried as to the residue. A motion under this section, which is docketed under the first section of chapter one hundred and thirty-one of this code, shall not be discontinued by reason of no order docketing the same upon

33 the return day thereof, or of no order of continuance being entered
34 in it from one day to another, or from term to term.

Senate Bill No. 65

AN ACT authorizing proof by affidavit of demands for money due on
contract, in civil actions before justices of the peace, founded upon
accounts.

Be it enacted by the Legislature of West Virginia:

Section 1. That in every civil action before a
2 justice of the peace upon an account for money due
2-a on contract, where the plaintiff has filed with the jus-
3 tice on or before the return day of the summons, a com-
4 plete statement of the items of his account, together with
5 an affidavit stating that there is, as he verily believes, due and
6 unpaid to him from the defendant, including principal and inter-
7 est, after deducting all payments, credits and sets-off made by the
8 defendant, and to which he is entitled, a sum certain to be named
9 in the affidavit, no answer shall be filed before the justice, unless
10 the defendant shall file with his answer, his affidavit stating that
11 there is not, as he verily believes, any sum due from him to the
12 plaintiff upon the demand or demands stated in said summons: or
13 stating a sum certain less than stated in the affidavit, which, as he
14 verily believes, is all that is due from him to the plaintiff upon the
15 demand or demands stated in the summons. If such answer and
16 affidavit be not filed, judgment shall be entered for the plaintiff by
17 the justice for the sum stated in his affidavit, with interest thereon
18 from the date of the affidavit till paid. And if such answer and
19 affidavit be filed by the defendant, and it be denied in such affidavit
20 that any sum is due the plaintiff, the trial of the case shall be
21 proceeded with as if the affidavits hereinbefore mentioned had not
22 been filed. If it be admitted in such affidavit that any sum is due
23 from the defendant, judgment may be taken by the plaintiff for
24 the sum so admitted to be due, with interest thereon from the date
25 of plaintiff's affidavit till paid, and the case tried as to the residue.
26 But nothing herein contained in this act shall be so construed as to
27 preclude the defendant from demanding of right a continuance of

28 the case under the provisions of section fifty-eight of chapter fifty
29 of the code of West Virginia.

Sec. 2. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

Senate Bill No. 7

AN ACT to empower the courts of this state to release upon parole
or probation certain minor offenders from punishment, or im-
prisonment, and providing conditions for such release and
parole.

Be it enacted by the Legislature of West Virginia:

Sec. 1. In any case in which a person under the age of
2 twenty-one years is convicted before a court of this state, of any
3 offense not capital, if it appears to the court before whom he
4 or she is so convicted, regard being had to the youth, character
5 and environments of the offender, to the nature of the offense,
6 and to any extenuating circumstances, under which the offense
7 was committed, that it is expedient that the offender be released on
8 probation of good conduct, the court may, instead of sentencing
9 him or her at once to any punishment, direct that he or she be
10 released upon his or her entering into a recognizance, conditioned
11 to keep the peace and be of good behavior, with or without se-
12 curity, as the court may see fit, for such period of time as the
13 court may prescribe, and to appear and receive judgment when
14 called upon. And the court may, if it thinks fit, direct that
15 such offender shall pay the cost of prosecution, or any portion
16 of the same, directed by the court, within such period, and in
17 such installments as the court may direct.

Sec. 2. The court may at any time within such period of
2 release or probation, but not afterwards, upon being satisfied by
3 information on oath, that the offender has failed to observe any
4 of the conditions of his recognizance, issue process for his ap-
5 prehension, and thereupon without any further proceedings, at any
6 general or special term of court, impose sentence upon him
7 or her as provided by law, the same as if this statute had not
8 been enacted.

9 All acts or parts of acts in conflict herewith are hereby re-
10 pealed.

Senate Bill No. 47

AN ACT to amend and re-enact sections seven, eight and ten of chapter sixty-four of the code of West Virginia, relating to divorces; and to add five additional sections to said chapter to be known as sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen of chapter sixty-four of the code of West Virginia of one thousand nine hundred and thirteen relating to divorce procedure, and to provide a penalty for the violation thereof.

Be it enacted by the Legislature of West Virginia:

That sections seven, eight and ten of chapter sixty-four of the code of West Virginia be amended and re-enacted; and that there be added to said chapter five additional sections to be known as sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen of chapter sixty-four of the code of West Virginia, of one thousand nine hundred and thirteen, which are hereby enacted to read as follows:

Section 7. The circuit court, on the chancery side thereof, shall have jurisdiction of suits for annulling or affirming marriages, or for divorces. If the marriage was not performed in the United States of America, no such suit shall be maintainable unless the plaintiff is a citizen of the United States, or the cause of action arose within the United States; and in no case shall a suit for divorce be maintainable unless the plaintiff be an actual *bona fide* citizen of this state, and shall have resided in the state for at least one year immediately preceding the bringing of the suit. The suit shall be brought in the county in which the parties last cohabited, or (at the option of the plaintiff) in the county in which the defendant resides, if a resident of this state; but if not, then in the county in which the plaintiff resides. Such suit may be brought and prosecuted by the wife in her own name, without a next friend, and a decree may be entered in the case upon an order of publication had, published and posted, as provided in chapter one hundred and twenty-four of the code of West Virginia; but such publication shall be in a newspaper of general circulation in the county.

Sec. 8. Such suit shall be instituted and conducted as other
2 chancery suits, except as hereinafter provided. All pleadings
3 shall be verified by the party in whose name they are filed; but the
4 bill shall not be taken for confessed, and whether the defendant
5 answers or not, the case shall be tried and heard independently
6 of the admissions of either party in the pleadings, or otherwise.
7 Costs may be awarded to either party as equity and justice re-
8 quire, and in all cases the court, in its discretion, may require
9 payment of costs at any time, and may suspend or withhold any
10 order or decree until the costs are paid.

Sec. 10. No divorce for adultery shall be granted on the
2 uncorroborated testimony of a prostitute, or a *particeps criminis*,
3 or when it appears that the parties voluntarily cohabited after the
4 knowledge of the adultery, or that it occurred more than three
5 years before the institution of the suit, or that it was committed
6 by the procurement or connivance of the plaintiff.

Sec. 14. Neither party to a divorce suit shall again marry
2 within six months from the date of a decree of divorce; but this
3 provision shall not apply to, or prohibit the divorced parties from
4 being re-married to each other at any time. The court may fur-
5 ther prohibit the guilty party from marrying within a certain
6 time, to be fixed in the decree, not to exceed five years from the
7 date of the decree; and any marriage contracted by the parties,
8 or either of them, except a re-marriage by the divorced parties to
9 each other, within the prohibited period, shall be void, and the
10 party shall be criminally liable the same as if no divorce had been
11 granted. The court may, at any time after the expiration of one
12 year, modify the restraint imposed upon the guilty party, upon
13 it being shown that such person, by reason of his or her life and
14 conduct, since the date of the decree, is entitled to such relief.

Sec. 15. If the process has been served on the defendant
2 sixty days before the first day of the term of court, or if the de-
3 fendant is a non-resident, and has been proceeded against by an
4 order of publication which has been fully completed at least thir-
5 ty days before the first day of the term, the case shall be placed
6 on the docket for trial and the same shall be tried before the court
7 in chambers, and all witnesses shall appear and testify at the
8 trial the same as witnesses in an action at law; and the law gov-
9 erning the taking and reading of depositions in an action at law
10 shall apply to depositions in the trial of divorce cases; *provided*,
11 the court may, instead of proceeding with the case under this sec-

tion, refer the same to a commissioner in chancery, or a special commissioner, as hereinafter provided.

Sec. 16. The circuit court of each county, or the judge thereof in vacation, may in his discretion, appoint a competent attorney in each county as a commissioner in chancery, to investigate divorce cases, who shall be designated as "divorce commissioner." He shall be a man of good moral character, of standing in his profession, and a resident of the county for which he is appointed, and shall, before assuming the duties of such commissioner, take the oath required of other commissioners in chancery; said commissioner shall discharge his duties and hold his office at the pleasure of the court, and may be removed at any time by the court. It shall be the duty of the divorce commissioner to investigate all divorce suits; to appear at all trials and examine witnesses when necessary, and defend the interests of the state; to bring before the court, at the trial, all witnesses necessary to develop the true facts, and generally take all necessary steps to prevent fraud and collusion in divorce cases. For which services he shall be allowed the sum of not less than five dollars nor more than fifteen dollars, to be fixed by the court, which amount shall be taxed as a part of the costs of the case.

Sec. 17. The plaintiff shall, in every case, at least thirty days before the first day of the term at which it is expected to try the case before the court, give the divorce commissioner notice in writing that a trial will be demanded. If the plaintiff has not in the bill stated the residence and post office address of the defendant, he shall furnish it to the commissioner at the time of giving such notice; but if the residence and post office address of the defendant are unknown to the plaintiff, at the time of giving the notice, an affidavit of this fact, by the plaintiff, delivered to the commissioner with the notice will be sufficient.

Sec. 18. Instead of proceeding with the cause under the provisions of the fifteenth section of this act, the court may, in its discretion, refer it to one of the commissioners in chancery of such court, or to a special commissioner, who shall take and return the testimony in such cause, together with a report of all such facts as the commissioner may be able to obtain as to property rights of the parties, their income, their character, conduct, health, habits, their children, and their respective places of residence from the time of their marriage up to the time of such report, and any other matter deemed necessary by the court, and all such facts so re-

11 ported shall be considered by the court in passing on the merits
12 of the cause, whether the same be referred to in the pleadings or
13 evidence, or not.

14 If testimony is to be taken in a county other than that in
15 which the cause is pending, the same shall be taken before one
16 of the commissioners in chancery of the circuit court of the county
17 in which the same is taken. If testimony is taken of witnesses
18 residing out of the state of West Virginia, the same shall be tak-
19 en before some person duly authorized to take depositions in di-
20 vorce cases in the state where taken. If depositions are taken out
21 of the county in which the cause is pending, or without the state,
22 the same shall be, by the person taking the same, filed with or
23 forwarded to the clerk of the court wherein such cause is pending,
24 and on receipt of such depositions said clerk shall lay the same
25 before the commissioner to whom said cause has been referred,
26 who shall consider the same in connection with his report herein-
27 before mentioned. The person before whom depositions are taken
28 hereunder, shall be personally present at the time and place of
29 taking depositions, and no depositions shall be taken or read in
30 the cause unless it appear therefrom that such person was person-
31 ally present during the taking of same. It is hereby made the
32 duty of the person before whom such depositions are taken, to
33 see that all witnesses are so examined as to elicit all facts within
34 their knowledge pertaining to the cause. If any person before
35 whom any such depositions are taken certify falsely as to his
36 presence at the taking of said depositions, he shall be guilty of
37 a misdemeanor, and on conviction thereof, shall be fined not less
38 than fifty dollars nor more than five hundred dollars. The court
39 in which such cause is pending may refer the same as often as in
40 its judgment justice requires, and may, if it so elect, summons
41 any one to appear before said court, and give evidence with ref-
42 erence thereto, and base its finding on such oral evidence solely.
43 The commissioner shall be allowed for his services the same com-
44 pensation as is allowed in other chancery causes, and all costs,
45 including stenographer's fees, shall be taxed as in all other chan-
46 cery causes.

Sec. 19. When a final decree is entered in any divorce cause
2 the clerk shall immediately seal in a package all the testimony,
3 bill and other papers, and the same shall not be again re-opened

4 unless by order of the court entering such decree, or his successor
5 in office.

6 All acts or parts of acts in conflict herewith are hereby re-
7 pealed. This act shall not apply to any divorce cases now pending
8 in any court in this state.

Senate Bill No. 67

AN ACT relating to the proof by affidavits of debts and demands for
money due on contract, in proceedings before commissioners in
chancery and commissioners of accounts.

Be it enacted by the Legislature of West Virginia:

Section 1. That every creditor, in any chancery cause pending
2 in any court before a commissioner in chancery under a decree of
3 reference in said cause, other than in a suit to enforce a lien on
4 real estate under the seventh section of chapter one hundred and
5 thirty-nine of the code of West Virginia, or in any proceedings
6 before a commissioner of accounts of any county, under the thir-
7 teenth section of chapter eighty-seven of said code, may establish
8 his debt or demand against the debtor, if it be for the recovery of
9 money due on contract, by filing before the commissioner with such
10 debt or demand, completely itemized where it is upon an account,
11 the affidavit or affidavits of any person or persons competent and
12 not disqualified by law (which affidavit or affidavits shall
13 affirmatively show in every case where the creditor is seeking to
14 prove a debt or demand against a deceased debtor or his estate) to
15 testify as a witness or as witnesses before the commissioner about
16 or concerning the debt or demand in question, stating in such
17 affidavit or affidavits every essential element necessary to constitute
18 proof of such debt or demand, the same as though affiant or affiants
19 had testified before the commissioner as a witness or as witnesses
20 in person; unless the debtor, his personal representative, or any
21 party, or creditor, or other person interested shall file before the
22 commissioner a counter-affidavit denying the correctness of debt or
23 demand, as a whole or in part, in which case the creditor present-
24 ing such debt or demand shall be required to produce his witness
25 or witnesses before the commissioner, reasonable notice of which

26 shall be given in writing to the creditor or his attorney, and the
27 taking of the testimony relative to such debt or demand shall be
28 proceeded with before the commissioner in like manner as if no
29 affidavit or affidavits had been filed.

Sec. 2. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

Senate Bill No. 71

AN ACT to cure defective deeds and acknowledgments thereto, and
the recordation thereof, and making a certified or attested copy
thereof competent evidence in lieu of the original.

Be it enacted by the Legislature of West Virginia:

Section 1. That no grant, bargain and sale, feoffment, deed
2 of conveyance, mortgage, trust, release, assignment, or other
3 assurance of land, tenements and hereditaments or real estate
4 whatsoever, or power of attorney, relating thereto, heretofore
5 made, or executed, and delivered by husband and wife to *bona*
6 *fide* purchaser for good and valuable consideration, and acknowl-
7 edged by them before an officer duly authorized by law to take
8 such acknowledgment, made, executed, acknowledged and delivered
9 prior to the twenty-first day of February one thousand eight hun-
10 dred and ninety-one, shall be deemed, held or adjudged invalid nor
11 defective or insufficient in law or in equity, by reason of any in-
12 formality or omission in setting forth the particulars of the
13 acknowledgment made before such officer aforesaid, in the cer-
14 tificate thereof, or in stating the official character of such officer
15 or the place of taking the acknowledgment, but every such power
16 of attorney shall be valid, and all and every such grant, bargain
17 and sale, feoffment, mortgage, trust, deed of conveyance and
18 acknowledgment as aforesaid, shall be as good, valid and effectual
19 in law for transferring, passing and conveying the estate, right,
20 title and interest of such husband and wife, and of each of them,
21 of, in and to the land, tenements and hereditaments and real
22 estate mentioned in the same, as if all the requisites and particu-
23 lars of such acknowledgment mentioned in any law in force at the
24 date of any such grant, bargain and sale, feoffment, deed of con-
25 veyance, mortgage, trust, release, assignment or other assurance,

26 were particularly set forth in the certificate thereof, and the record
27 of the same duly made in the proper office for recording of deeds
28 in the state of West Virginia, or in the state of Virginia, before
29 the formation of West Virginia; and exemplifications of the same
30 duly certified shall be legal evidence in all cases in which the origi-
31 nal would be competent evidence; *provided, always*, that this act
31 shall not apply to suits now pending and undetermined or to any
32 suit that may be brought within one year after the passage of this
33 act, or to any such deed, grant, bargain and sale, feoffment, mort-
34 gage, trust, release, assignment of other assurances of land, tene-
35 ments, and hereditaments or real estate whatsoever, or power of
36 attorney relating thereto, which has heretofore been declared or
37 held invalid by any court of competent jurisdiction.

Senate Bill No. 169

AN ACT to amend and re-enact sections one, five, six and twenty-six
of chapter one hundred and thirty-five of the code of West Vir-
ginia relating to the jurisdiction of the supreme court of appeals
and regulating the manner and method of appeals thereto, and to
add an additional section to said chapter giving the state the right
to apply for a writ of error in criminal cases, where an indictment
is held bad or insufficient for any cause, which additional section
shall be numbered thirty-one.

Be it enacted by the Legislature of West Virginia:

That sections one, five, six and twenty-six, of chapter one hundred
and thirty-five of the code of West Virginia, be and the same are
hereby amended and re-enacted so as to read as follows:

Section 1. A party to a controversy in any circuit court may
2 obtain from the supreme court of appeals, or a judge thereof, in
3 vacation, an appeal from, or a writ of error or supersedeas to,
4 a judgment, decree or order of such circuit court in the following
5 cases:

6 *First.* In civil cases where the matter in controversy, exclu-
7 sive of costs, is of greater value or amount than one hundred
8 dollars, wherein there is a final judgment or decree or order.

9 *Second.* In controversies concerning the title or boundaries

10 of land, the probate of a will, or the appointment of a personal
11 representative, guardian, committee or curator.

12 *Third.* Concerning a mill, road, way, ferry or landing.

13 *Fourth.* Concerning the right of a corporation, county or dis-
14 trict to levy tolls or taxes.

15 *Fifth.* In any case of *quo warranto*, *habeas corpus*, manda-
16 mus or prohibition.

17 *Sixth.* In any case involving freedom or the constitution-
18 ality of a law.

19 *Seventh.* In any case in chancery wherein there is a decree
20 or order dissolving or refusing to dissolve an injunction, or re-
21 quiring money to be paid, or real estate to be sold, or the posses-
22 sion or title of the property to be changed, or adjudicating the
23 principles of the cause.

24 *Eighth.* In any case where there is a judgment or order
25 quashing or abating, or refusing to quash or abate an attach-
26 ment.

27 *Ninth.* In any civil case where there is an order granting
28 a new trial or rehearing, and in such cases an appeal may be
29 taken from the order without waiting for the new trial or re-
30 hearing to be had.

31 *Tenth.* In any criminal case where there has been a con-
32 viction in a circuit court or a conviction in an inferior court which
33 has been affirmed in a circuit court.

34 Any question arising upon the sufficiency of a summons or
35 return of service, or challenge of the sufficiency of a pleading, in
36 any case within the appellate jurisdiction of the supreme court of
37 appeals, may, in the discretion of the court in which it arises, and
38 shall, on the joint application of the parties to the suit, in bene-
39 ficial interest, be certified by it to the supreme court of appeals
40 for its decision, and further proceedings in the case stayed until
41 such question shall have been decided and the decision thereof
42 certified back. The forms of the certificates of such questions, as
43 well as the time and manner of the hearing and notice thereof
44 and the portion of the record to be sent up, shall be as prescribed
45 by the supreme court of appeals; but such hearings shall have
46 precedence over those arising upon appeals and writs of error.
47 Entry of such certificate, or the fact that it has been made, upon
48 the record of the case in the trial court, shall be sufficient notice
49 to the parties, of the pendency of the question in the appellate
50 court.

Sec. 5. Such petition, together with a copy thereof, shall
2 be first filed in the office of the clerk of the court wherein the
3 judgment, decree or order complained of was entered, and, re-
4 taining in his office the copy of such petition, said clerk shall, as
5 soon as may be, transmit to the clerk of the supreme court of ap-
6 peals, or such judge of said court as the petitioner shall designate,
7 if said court be not in session, by United States registered mail
8 or valued express, the original, together with the record of so much
9 of the case wherein the judgment, decree or order is, as will en-
10 able the court or judge to whom the petition is to be presented,
11 properly to decide on such petition, and enable the court, if the pe-
12 tition be granted, properly to decide the questions that may arise
13 before it. The clerk of the circuit court, before transmitting the
14 record as aforesaid, shall arrange the papers, as nearly as may be,
15 in the order of the filing and entry thereof, numbering the pages,
16 make and certify copies of all orders entered in the case, copies of
17 which are not in the files, and prepare and annex to the record a
18 table of contents or index. Before such petition and record are
19 transmitted as aforesaid, the petitioner shall deposit with the
20 clerk of the circuit court a sufficient sum of money to defray the
21 expenses of the preparation and indexing of the record, fees for
22 filing the petition and making and certifying necessary copies
23 of orders, costs of transmission and return of the record, and the
24 making of a transcript of the record, or file with the clerk a bond
25 conditioned to pay the same, in a penalty and with sureties to be
26 fixed and approved by said clerk, who shall endorse on the peti-
27 tion that such deposit has been made or such bond filed. If the
28 appeal or writ of error prayed for be granted, the clerk of the
29 supreme court of appeals shall immediately after the issuance of
30 the appellate process, return the record to the clerk of the circuit
31 court, by mail or express, as aforesaid; and said circuit court
32 clerk shall forthwith make a transcript of so much of the record
33 as is required for the purposes of the appeal or writ of error and
34 transmit the same to the clerk of the supreme court of appeals.
35 In so far as provision therefor is not made by existing law, the
36 compensation of the clerk of the circuit court for services ren-
37 dered hereunder shall be fixed by the judge of said court. If the
38 prayer of the petition be not granted, the petition and record shall
39 be returned as aforesaid, and the clerk of the circuit court shall
40 repay to the petitioner or his attorney, the money deposited with
41 him, if any, less his fees and expenses.

Sec. 6. Unless the person who has obtained the appeal or writ of error direct otherwise, there shall not be copied in the transcript any of the process, returns or evidence of service, nor the commissions, if any, and notices to take depositions, the captions to such depositions, and certificates of their having been sworn to, except so far as may be necessary to the decision of exceptions taken to the reading of the depositions; but the name of each witness and the day of taking his deposition shall be stated at the head thereof; nor shall there be copied an account reported by a commissioner, to which there is no exception, nor any printed document of which either party will furnish to the clerk a copy, but such duplicate shall be attached to what is copied. If either of the parties to the suit or action shall furnish to the clerk an original carbon copy of any pleading, order, decree, deposition, bill of exception, or certificate of evidence, he shall, instead of copying the paper, a copy of which is so furnished, include such in the transcript, without charge therefor, except a comparing fee of ten cents per one thousand words. When a case has been before the supreme court of appeals, there shall be certified only the proceedings subsequent to the former appeal, writ of error or supersedeas. Unless otherwise ordered as herein provided, by the court or judge allowing the appeal, writ of error or supersedeas, the clerk shall make out the whole record in the manner herein provided, or any additional part thereof, if either party to the appeal shall so direct. But such court or judge may, on the allowance of the appeal, direct the omission from the transcript of such parts of the record as are deemed immaterial, by an endorsement thereon, and such part shall, in such case, be omitted. The bond filed and the notice of appeal, if one has been served, shall be inserted in the record.

Sec. 26. The supreme court of appeals shall affirm the judgment, decree or order, if there be no error therein, and reverse the same in whole or in part, if erroneous, and enter such judgment, decree or order as the court whose error is sought to be corrected ought to have entered, affirming in cases where the court is equally divided. In the case of an appeal from an order granting a new trial, or rehearing, if the order be reversed, such final judgment, decree or order shall be rendered or made in the case as the appellant was entitled to in the court below. With leave of the court previously granted, and after reasonable notice to be prescribed by a rule of the court, a motion to dismiss, affirm

12 or reverse may be made at any time after the allowance of an ap-
13 peal, writ of error or supersedeas; and, upon the hearing of such
14 motion, the court may dismiss, affirm, modify or reverse with like
15 effect as if the appeal, writ of error or other process had been reg-
16 ularly matured for final hearing.

Sec. 31. Notwithstanding anything hereinbefore contained
2 in this chapter, whenever in any criminal case an indictment is
3 held bad or insufficient by the judgment or order of a circuit court
4 or an inferior court, the state, on the application of the attorney
5 general or the prosecuting attorney, may obtain a writ of error
6 to secure a review of such judgment or order by the supreme court
7 of appeals. No such writ of error shall be allowed unless the
8 state presents its petition therefor to the supreme court of ap-
9 peals, or one of the judges thereof, within thirty days after the
10 entry of such judgment or order. No such judgment or order
11 shall finally discharge or have the effect of finally discharging
12 the accused from further proceedings on the indictment unless
13 the state fails, within said period of thirty days, to apply for such
14 writ of error, or fails to obtain such writ of error, upon an appli-
15 cation made within said period; but after the entry of such judg-
16 ment or order the accused shall not be kept in custody or re-
17 quired to give bail pending the hearing and determination of the
18 case by the supreme court of appeals. If, upon the allowance of
19 any such writ of error, process from the supreme court of ap-
20 peals cannot for any reason be served personally upon the ac-
21 cused, service may be made by filing a copy thereof in the
22 clerk's office of the court which entered such judgment or order.
23 Every such writ of error shall have precedence in the supreme
24 court of appeals, and shall be heard and determined as speedily as
25 possible. If said court reverses the lower court, and holds the in-
26 dictment good and sufficient for a trial of the accused thereon,
27 the case shall be remanded to the court in which the indict-
28 ment was found, in order that such trial may be had.

29 Except as herein otherwise provided, all the provisions of
30 the other sections of this chapter shall, so far as appropriate, be
31 applicable to a petition for a writ of error under this section, and
32 to all subsequent proceedings thereon in the supreme court of
33 appeals in case such writ of error is allowed or granted.

Senate Bill No. 93

AN ACT to amend and re-enact section nine of chapter one hundred and twelve of the code of West Virginia, (serial section three thousand six hundred and twenty-eight of the code of one thousand nine hundred and six) relating to the residence of judges of the circuit, criminal and intermediate courts, and adding thereto certain limitations upon said judges disqualifying them from taking cognizance of suits by reason of interest in the result, relationship to the parties, or corporate connection.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter one hundred and twelve of the code of West Virginia, (serial section three thousand six hundred and twenty-eight of the code of one thousand nine hundred and six) be amended and re-enacted to read as follows:

Section 9. Each circuit, criminal or intermediate judge during his continuance in office shall reside in the circuit or county for which he was elected and when such judge be a party to a suit, or be interested in the result thereof, otherwise than as a resident or taxpayer of the district or county, or be related to either of the parties, as grandfather, father, father-in-law, son, son-in-law, brother, brother-in-law, nephew, uncle, first cousin, guardian or ward, or if at the time of the institution of the suit or any time before the final termination of the suit he, his wife, or any party or parties related to him in the degree as in this section hereinbefore specified be a stockholder, or officer, in any stock company or corporation which is a necessary party to the proceedings, or if he be a material witness for either party, he shall not take cognizance thereof unless all parties to the suit consent thereto in writing; *provided*, that no judgment or decree rendered or pronounced by any such judge shall be invalidated by reason of such relationship unless the same appear of record in such suit or proceeding.

Senate Bill No. 54

AN ACT authorizing incorporated cities and towns, and also counties and school districts, to levy taxes for the purpose of establishing public libraries and reading rooms: to appoint library boards

and defining their duties and powers; provide penalties for the injury or defacement of library property, or the detention of books, magazines, newspapers, etc., belonging to a public library.

Be it enacted by the Legislature of West Virginia:

Section 1. The following words and phrases, wherever used in this act shall include and be taken to mean as follows: the word “municipality” shall include an incorporated city, a town, a county and a school district; “municipal authority” shall include the mayor and common council of a city, a town, or board of commissioners, or other corresponding authority thereof, county courts and boards of education of school districts and independent school districts; “public library” shall include public library and reading room; “chief executive authority” shall include mayor and city council or other corresponding authority in cities and towns, and the county court and board of education in counties and school districts; “the directors of public library board” shall include the members of public library boards of cities, towns, counties and school districts established under this act.

Sec. 2. The municipal authority of any municipality shall have the power to establish, equip and maintain a public library, or take over and maintain and support any public library already established therein, for the use and benefit of the inhabitants of such municipality, and may levy an annual tax for the purpose of not more than one and one-half cents on the one hundred dollars, on all the taxable property in said municipality, such tax to be levied and collected in like manner as the general taxes of the municipality, which shall be kept separate in a fund to be known as the “library fund”; *provided*, that when any municipality makes a levy for a municipality in which there is already a municipal library, and the said municipality does not join in the proposed library, the said municipality shall omit from the levy of the library tax all property within the limits of said municipality not joining in said proposed library; *provided, further*, that before establishing any public library, or levying any tax therefor, the municipal authority shall submit the question to the voters of such municipality, and the majority of the voters voting thereon shall authorize the establishment of such library, and the levy of such tax. The question shall be submitted at a general or special election, upon the order of said municipal authority or upon the petition, in case said municipal authority fail or refuse

23 to do so, in writing, of twenty per centum of the qualified voters
24 residents of the municipality; and the election, when ordered,
25 shall be conducted, held and returned in all respects as other elec-
26 tions; and the ballot used shall have written or printed thereon
27 under the heading "public library question" the words, in plain
28 letters, "for public library," "against public library." And
29 the municipal authority of said municipality shall give at least
30 two weeks notice of said election by publishing notice thereof in
31 one or more newspapers published in said municipality; or, if
32 none are therein published, by like notice posted for a like
33 period at each of the voting places in said municipality, and at
34 five other public places for a like period, before said election,
35 giving the date and object of the election.

Sec. 3. Whenever such public library is established under
2 this act, the chief executive authority of said municipality shall
3 appoint a board of six directors, chosen from the citizens at large
4 from said municipality, with reference to their fitness for such
5 office. Such directors shall hold office for three years from the
6 first day of July following their appointment, and until their suc-
7 cessors are appointed; but upon their first appointment they shall,
8 at their first meeting, divide themselves into three classes, so that
9 one-third of the number shall hold office for a period of one year.
10 one-third for two years, and one-third for three years. No per-
11 son shall be ineligible to serve on said board by reason of sex.
12 Vacancies in the board shall be reported to the municipal author-
13 ities, and filled by appointment in like manner as original ap-
14 pointments for the unexpired term. The municipal authorities
15 may remove any director for misconduct or neglect of duty. No
16 compensation shall be paid or allowed any director. The chief
17 school officer of each municipality establishing a public library
18 shall be *ex-officio* a member of its library board in addition to
19 the six directors provided for herein.

Sec. 4. The directors of each public library established un-
2 der this act shall, immediately after their appointment, meet
3 and organize by electing one of their number as president and
4 one as secretary. A majority of all the members of any board
5 shall constitute a quorum for the transaction of business. They
6 shall make and adopt such by-laws, rules and regulations for their
7 own guidance and for the government of the library as may be
8 expedient and not inconsistent with this act. They shall have
9 exclusive control of the expenditures of all the money collected

10 for the library fund and for the construction of any library build-
11 ing or repairs thereto, and the supervision, care and custody of
12 the grounds, rooms or building constructed, leased or set apart
13 for the purpose; *provided*, that all money received for public li-
14 brary purposes, and deposited in the treasury of such municipal-
15 ity to the credit of the library fund, shall be drawn by the proper
16 municipal officers upon the proper authenticated vouchers of the
17 library board. Public library boards may, with the approval of
18 the municipal authority, lease and occupy or purchase or erect
19 an appropriate building for the use of said library. They shall
20 have power to appoint a suitable librarian and assistants, and pre-
21 scribe rules for their conduct, and fix their compensation; and
22 shall have power to remove such appointee, and, in general, to carry
23 out the spirit and intention of this act in establishing and main-
24 taining free public libraries for their respective municipalities.

Sec. 5. Each library established under this act shall be free
2 for the use of the inhabitants of the municipality where located,
3 subject to such reasonable rules and regulations as the library
4 board may adopt and publish, in order to render the use of said
5 library of greatest benefit to the greatest number; and said board
6 may exclude from the use of said library any and all persons who
7 shall wilfully violate such rules. The board may extend the priv-
8 ilege and use of said library to non-residents of the municipality
9 upon such terms and conditions as said board may prescribe.

Sec. 6. Each library board shall, on or before the first day
2 of July in each year, make report to the municipal authority ap-
3 pointing it, stating the condition of the library property, the var-
4 ious sums of money received from the library fund, and all other
5 sources, and how such money was expended; the number of books
6 and periodicals on hand, the number added by purchase and gift,
7 the number lost or mislaid, the number of books loaned out and
8 the general character of such books, together with an itemized
9 budget estimate of expense of the library for the ensuing year,
10 with such other statistical information and suggestions as they
11 may deem of general interest or that may be required by said mu-
12 nicipality.

Sec. 7. All persons desiring to make donations of cash or
2 other personal property or real estate for the benefit of such library,
3 shall have the right to vest the title thereof in the library board
4 created under this act, to be held in trust and controlled by such

5 board according to the terms and for the purposes set out in the
6 deed, gift, devise or bequest.

Sec. 8. Any one who shall wilfully deface or injure any
2 building or furniture, or deface, injure or destroy any picture,
3 plate, engraving, map, newspaper, magazine or book, or any ob-
4 ject of art belonging to a public library, shall be guilty of a mis-
5 demeanor, and on conviction thereof shall be punished by a fine
6 of not less than five dollars nor more than fifty dollars, or by im-
7 prisonment not exceeding six months. The fine in each case shall
8 be paid to the proper officer or custodian of the library fund to be
9 used by such library as other money paid into its treasury.

Sec. 9. Any person who shall wilfully detain any book,
2 newspaper, magazine, pamphlet or manuscript belonging to such
3 library, or to any incorporated library, for thirty days after no-
4 tice in writing from the librarian, after the expiration of the time
5 such books, newspaper, magazine, pamphlet or manuscript may
6 be kept according to the rules and regulations of said library,
7 shall be liable for damages, to be recovered by said library board
8 by appropriate proceeding before a justice of the peace; the re-
9 covery in each case to be paid to the proper officer or custodian
10 of its funds; *provided*, that the notice required hereby shall in-
11 clude a copy of this section.

Senate Bill No. 173

AN ACT concerning the compilation of the code of West Virginia of
one thousand nine hundred and thirteen, edited by Charles E.
Hogg, declaring the same competent evidence of the law in all
the courts of the state.

Be it enacted by the Legislature of West Virginia:

Section 1. The general laws of the state of West Virginia, as
2 edited and compiled by Charles E. Hogg, and published by the
3 West Publishing Company, and entitled the "West Virginia Code
4 Annotated, C. E. Hogg, 1913", are hereby declared competent
5 evidence of the several acts and resolutions therein contained in
6 all courts of this state, without further proof or authentication,
7 and shall be known and cited as "Code 1913."

Senate Bill No. 6

AN ACT to amend and re-enact chapter one hundred and thirteen of the code of West Virginia, relating to the supreme court of appeals.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and thirteen of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 1. The supreme court of appeals shall consist of five judges, elected and qualified according to the constitution and laws; any three of whom shall be a quorum.

Sec. 2. They shall designate one of their body to be the president of said court. In the absence of the president any other judge designated by the judges present, shall act as president.

Sec. 3. Two terms of the supreme court of appeals shall be held every year at Charleston, in the county of Kanawha, the first commencing on the second Wednesday in January, the second on the first Wednesday in September, and continue until the business is dispatched. But when, in the judgment of the court, extraordinary circumstances require, such term or terms may be held at such other place or places within the state as the court may designate, such times and places to be fixed in the manner provided hereby for holding special terms of said court.

Sec. 4. The original jurisdiction of the supreme court of appeals shall extend to cases of *habeas corpus*, *mandamus* and prohibition. The appellate jurisdiction shall extend to civil cases when the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in controversies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing; or the right of a corporation or county to levy tolls or taxes; and also in cases of *quo warranto*, *habeas corpus*, *mandamus*, *certiorari* and prohibition, and in cases involving freedom or the constitutionality of a law. It shall have appellate jurisdiction in criminal cases, where there has been conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court and been affirmed in a circuit

16 court, and in cases relating to the public revenue, the right of ap-
17 peal shall belong to the state, as well as the defendant, and such
18 other appellate jurisdiction, in both civil and criminal cases, as
19 may be prescribed by law.

Sec. 5. The supreme court of appeals may review and re-
2 hear any cases decided by said court at the next succeeding
3 regular term so far as to allow the correction of any clerical
4 error in any decree or judgment pronounced by said court, or
5 where the court on its own motion may desire to re-hear and
6 correct such decree or judgment. But no argument shall be heard
7 on such motion to re-hear unless requested by said court.

Sec. 6. The supreme court of appeals, or judges thereof
2 in vacation, may appoint a clerk who shall give bond as required
3 by chapter ten of the code. They may also appoint a crier and a
4 messenger, all of which said officers shall be removable at the
5 pleasure of said court or judges. Vacancies in the office of clerk
6 occurring during vacation, may be filled by appointment in
7 writing, made by the judges of said court or any three of them.

Sec. 7. It shall be the duty of the clerk of the supreme
2 court of appeals to attend in person, or by deputy, all the ses-
3 sions of the said court, to obey its orders and directions in term
4 time, and in vacation to take care of and preserve in an office,
5 kept for the purpose, all the records and papers of said court,
6 and to perform such other duties as may be required of him by
7 the said court, or which shall be prescribed by law.

Sec. 8. The crier of the supreme court of appeals shall
2 attend the sessions of the court: shall keep order in the court
3 and have its hall kept constantly clean, ventilated and supplied
4 with water when necessary; obey the orders and directions of the
5 court, and in all respects be under its direction and authority,
6 for which he shall be allowed the sum of four dollars for each
7 day of the term, Sundays excepted, to be paid out of the state
8 treasury upon the certificate of the court.

Sec. 9. The messenger of the said supreme court of ap-
2 peals shall constantly attend the sessions of the said court, and
3 obey its orders and directions, for which he shall be allowed three
4 dollars for each day of the term, Sundays excepted, to be paid
5 out of the state treasury upon the certificate of the court.

Sec. 10. Special terms of the supreme court of appeals

2 may be held for the trial and decision of causes at Charleston, in
3 Kanawha county, specially designated as the place for holding the
4 regular terms thereof, and under extraordinary circumstances at
5 such other times and places as the said court may designate by
6 an order entered of record at a regular or special term of
7 said court. And said court may at any special term authorized
8 by this chapter, decide any cause which may have been heard at
9 a previous regular or special term.

Sec. 11. Said court may at any regular or special term,
2 adjourn from day to day, or from time to time, as the court may
3 order, until its close.

Sec. 12. The judges of said court, or a majority of them,
2 may by warrant signed by them, directed to the clerk, appoint a
3 special term to be held for the trial and decision of causes at
4 Charleston, or, under extraordinary circumstances, at any other
5 point within the state designated by them, or which may here-
6 after be designated by law for holding regular terms thereof. The
7 clerk shall enter such warrant in the order book of said court.

Senate Bill No. 105

AN ACT to amend and re-enact section thirty of chapter twenty-seven
of the acts of one thousand nine hundred and eight, extra ses-
sion, as amended and re-enacted by chapter sixty-eight of the

Sec. 13. At any special term of said court, any cause, the
2 term, decide any cause or proceeding which may have been pre-
3 viously heard by the court at any regular or special term thereof.
4 counsel, entered of record, or upon at least thirty days' notice in
5 writing, given by the parties desiring the hearing to the opposite
6 party or his counsel, of his intention to insist on a hearing, when
7 the same may, in the discretion of the court, be heard and deter-
8 mined at any such special term.

Sec. 14. The said court may, at any regular or special
2 record of which has been previously printed may, in the discretion
3 of said court, be heard and decided by consent of parties or their

4 All acts and parts of acts inconsistent herewith are hereby
5 repealed.

acts of one thousand nine hundred and eleven, relating to the establishment of district high schools, the classification of high schools and the distribution of state aid to classified high schools.

Be it enacted by the Legislature of West Virginia:

That section thirty of chapter twenty-seven of the acts of one thousand nine hundred and eight, extra session, as amended by chapter sixty-eight of the acts of one thousand nine hundred and eleven, be and the same is hereby amended and re-enacted so as to read as follows:

District High Schools; How Established; Classification and State Aid.

Section 30. (a) If the board of education of any district
2 deem it expedient to establish a high school in such district, they
3 shall submit the question to the voters of the district at a general
4 or special election in the manner following, that is to say: the
5 board shall prepare and sign a notice setting forth the kind of
6 school proposed; the estimated expense of establishing the same,
7 including cost of site, building, furniture, books and apparatus and
8 the estimated annual expense of supporting the school after
9 it is in operation, with such other information concerning it as
10 they may deem proper; and stating that the question of authorizing
11 the establishment of such high school shall be submitted to the
12 voters of the district at the election specified in the notice which
13 they shall cause to be posted for four weeks before the election in
14 at least three of the most public places in the district.

15 The ballots used in voting on the question shall have written
16 or printed thereon the words "For district high school," and the
17 words "Against district high school." If it appear by the re-
18 sult of said election that a majority of the voters who voted on
19 the question are in favor of authorizing the establishment of said
20 school, the board of education shall then proceed to obtain the
21 site, provide a suitable building or buildings, furniture, apparatus
22 and supplies and employ necessary teachers therefor.

23 (b) The high schools of this state shall be divided into three
24 classes as follows:

25 High schools of the first class shall include all high schools
26 offering courses of study covering four years of not less than thirty-
27 six weeks each and employing not fewer than three thoroughly
28 qualified high school teachers who devote all of their time to the
29 teaching of high school subjects.

30 High schools of the second class shall include all high schools
31 offering courses of study covering three years of not less than
32 thirty-six weeks each and employing not fewer than two thoroughly
33 qualified high school teachers who devote all of their time to the
34 teaching of high school subjects.

35 High schools of the third class shall include all high schools
36 offering courses of study covering two years of not less than thirty-
37 six weeks each and employing at least one thoroughly qualified
38 high school teacher who devotes all of his time to the teaching of
39 high school subjects.

40 (c) It shall be the duty of the state superintendent of
41 schools to classify all of the high schools of the state in accordance
42 with the provisions of division (b) of this section.

43 (d) To assist in the maintenance of all such high schools
44 as have been properly classified according to the provisions of
45 division (b) of this section and have complied with all the re-
46 quirements thereof, the following amounts are hereby appropriated
47 to be paid annually out of the state fund:

48 To each high school of the first class, eight hundred dollars;
49 to each high school of the second class, six hundred dollars; and to
50 each high school of the third class four hundred dollars.

51 (e) The state superintendent of schools shall not later than
52 the first day of October, annually, notify the county superintendent
53 of schools of each county as to the amount due under the pro-
54 visions of this section to each of the classified high schools in his
55 county. The county superintendent shall issue his warrants upon
56 the auditor, payable to the order of the sheriff of his county, for
57 the amount due each school which shall be paid in two equal in-
58 stallments, payable on the first day of December and the first day
59 of April.

Senate Bill No. 78

AN ACT to provide for the payment of tuition fees of high school pupils by boards of education not maintaining high schools, the same to be section thirty-a of chapter forty-five of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 30-a. It shall be the duty of the board of education of
2 any district which does not maintain a high school to pay the
3 tuition fees of all pupils in their district who have completed the
4 course of study in the elementary schools and who desire to attend
5 public high schools or other schools of high school grade in other
6 districts within the state; *provided*, that boards of education shall
7 not pay more than two dollars and fifty cents per month for such
8 tuition for each pupil attending a high school or other school of
9 high school grade in another district; and, *provided, further*, that
10 boards of education shall not be required to pay such tuition fees
11 for any pupils for more than four years; and, *provided, further*,
12 that any board of education maintaining a high school of less than
13 four years course, may pay the tuition of any pupil who has com-
14 pleted the course in such high school in any other school or schools
15 of high school grade of four years, or equivalent thereof, so that
16 such pupil may have the benefit of a four years' course in high
17 school. Fees for the tuition of high school pupils shall be paid
18 out of the building fund of the district upon the presentation of a
19 certificate signed by the president of the board of education con-
20 trolling the high school in which tuition pupils were in attendance
21 and by the principal of the school and giving the names of such
22 pupils and the number of months each was in attendance.

Senate Bill No. 275

AN ACT to amend and re-enact section seven of chapter thirty-nine of the acts of the legislature of West Virginia of the year one thousand eight hundred and eighty-seven.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter thirty-nine of the acts of the legislature of West Virginia of the year one thousand eight hundred and eighty-seven be and the same is hereby amended and re-enacted so as to read as follows:

Section 7. The board of education of said independent
2 school district shall establish and maintain a first class high school,

3 within the meaning of division (b) of section thirty of chapter
4 forty-five of the code of West Virginia, in which no person, ex-
5 cept a thoroughly qualified high school teacher holding a degree
6 from a college at least equal to West Virginia university in its
7 curriculum and standing, shall be employed or permitted to teach
8 any of the branches regularly prescribed for first class high schools
9 provided for in said division (b); and the requirements of this
10 section, as to such high school, may be enforced by any taxpayer
11 of said independent district by mandamus to compel performance
12 of official duty thereunder, or injunction to prevent violation
13 thereof.

14 In addition to said high school said board of education shall
15 establish and maintain such other schools as shall, in their judg-
16 ment, be promotive of the educational interests of children of said
17 independent school district.

18 Pupils between the ages of six and twenty-one years residing
19 elsewhere than in said independent district, shall be admitted to
20 said schools upon payment to said board of education, in advance,
21 of a reasonable monthly tuition, to be fixed by said board, and to
22 become a part of the teachers' fund of said independent district.
23 Said board of education shall, at a meeting to be held not earlier
24 than the first day of July nor later than the first day of September
25 in each year, appoint the teachers for said schools for the current
26 school year, and fix and determine their salaries for such year.
27 Such appointments shall be recorded by the secretary of said board;
28 and any teacher appointed by said board may, by them, be removed
29 for incompetency, neglect of duty, intemperance, profanity, cruelty
30 or immorality.

Senate Bill No. 305

AN ACT authorizing the employment of a stenographer by the judge
of the fourth judicial circuit, fixing his compensation, and pro-
viding how he shall be paid.

Be it enacted by the Legislature of West Virginia:

Section 1. The judge of the circuit court in the fourth judi-
cial circuit is hereby authorized to appoint and employ one sten-
ographer to assist him in the performance of the clerical work re-

4 quired by his official duties, whose term of employment shall be at
5 the will of the judge making such appointment.

Sec. 2.¹ The appointment of such stenographer shall be
2 made and the compensation fixed by such circuit judge, by an or-
3 der entered in the law order book of the circuit court in each
4 county in his circuit.

Sec. 3. The compensation of such stenographer shall be
2 fixed by such judge at such sum as he shall deem proper, not to
3 exceed one hundred dollars per month, and be paid at the end of
4 each month on the order of such judge by the county courts of
5 the counties composing such judicial circuit, *pro rata*, according
6 to the population of such county as established by the next preced-
7 ing census of the United States; *provided*, that the court or judge
8 thereof, may in his discretion fix a per diem compensation to be
9 paid to such stenographer in lieu of all compensation.

Sec. 4. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

Senate Bill No. 2 7

AN ACT to amend and re-enact the act of the legislature of West
Virginia, passed on the twenty-first day of February, one thous-
and nine hundred and thirteen, relating to the amendment of
the charter of the city of Princeton, in the county of Mercer.

Be it enacted by the Legislature of West Virginia:

That the charter of the city of Princeton, in the county of Mercer,
as amended and re-enacted by an act of the legislature of West Vir-
ginia, passed on the twenty-first day of February, one thousand nine
hundred and thirteen, be and the same is hereby amended and re-en-
acted so as to read as follows:

Section 1. That the inhabitants of so much of the county
2 of Mercer, in the state of West Virginia, included in the bound-
3 aries described in section two of this act, be and they are hereby
4 to remain and continue a municipal corporation by the name of
5 "the city of Princeton," by which name they shall have perpetual
6 succession and a common seal, and by which name they may sue
7 and be sued, plead and be impleaded, contract and be contracted
8 with, purchase and otherwise acquire and hold real estate and

9 personal property needed in the discharge of the functions of
10 government conferred by this charter.

Corporate Limits.

Sec. 2. The corporate limits of the city of Princeton shall
2 be as follows, that is to say: Beginning at the bridge where the
3 Raleigh and Kanawha turnpike crosses Gladly fork, and running
4 thence down Gladly fork to Brush creek; thence down Brush
5 creek to the mouth of Board Camp branch; thence due east,
6 crossing the center line of the Deepwater railroad, as shown by
7 the map and profile of the location of said road filed in the office
8 of the county court clerk of Mercer county, West Virginia, on
9 the twenty-third day of March, one thousand nine hundred and
10 four, to a point fifty feet beyond the said center line at right an-
11 gles thereto; thence parallel to the center line of the location of
12 said railroad as shown upon said map, and fifty feet distant
13 therefrom to Christian's fork, which is a point eastward from the
14 residence of William Oliver; thence a straight line in a north-
15 western direction to the old Alvis mill, on Brush creek; thence
16 a straight line to the residence formerly owned by Elliott Blank-
17 enship on the Low Gap road, including said residence within
18 former residence of said Blankenship within the corporate lim-
19 its as aforesaid, touching the residence of the late Saunders Lew-
20 is, and including the same within the corporation, to a point in
21 the center line of the Raleigh and Kanawha turnpike road;
22 thence a straight line touching the residence of I. W. Walker,
23 now owned by W. B. Honaker, and including the same within
24 the corporate limits to Gladly fork; thence down Gladly fork to the
25 point of beginning.

Wards and Their Boundaries.

Sec. 3. The said city of Princeton shall consist of three (3)
2 wards, which shall be bounded as follows:

3 FIRST WARD.

4 All the following described boundary shall constitute the
5 first ward of the said city, that is to say: Beginning at a point
6 on the corporate limits of said city in the center of the bridge
7 over Brush creek, on the road leading from Princeton to Ingle-

8 side; thence in a northern direction and with said Ingleside road
9 to the center of Princeton avenue; thence with the center of said
10 Princeton avenue, in a western direction, to the inter-
11 section of the center line of said avenue, with the cen-
12 ter line of Fellers street; thence with the center of
13 Fellers street, in a northern direction, to its intersec-
13-a tion with the center line of Main street; thence with the
14 center line of Main street, in a western direction, to its intersec-
15 tion with the center line of Mercer street; thence with the cen-
16 ter line of Mercer street, in a northeast direction, to its inter-
17 section with the center line of Center street; thence with the cen-
18 ter line of Center street, in a western direction to its intersec-
19 tion with the center line of Hale avenue; thence with the center
20 line of Hale avenue, in a northern direction, to the corporate
21 line; thence with the corporate line, in a western and southwest-
22 ern direction, to Gladly fork; thence down Gladly fork to Brush
23 creek; thence down Brush creek to the point of beginning.

24

SECOND WARD.

25 All the following described boundary shall constitute the sec-
26 ond ward of said city; that is to say: Beginning at the begin-
27 ning corner of the first ward, at a point in the center of the
28 bridge across Brush creek, on the Ingleside road; thence down
29 the brush creek, in a northwest direction, to the railroad bridge
30 across Brush creek south of the Virginian railway freight sta-
31 tion; thence with the center of the survey for the Mercer Electric
32 Railway Company's line in a western and northwestern direc-
33 tion, to First street; thence with the center of First street, in a
34 northern direction, to its intersection with the east end of the
35 center line of Harrison street; thence with the center line of
36 Harrison street in a western direction to its intersection with the
37 center line of Third street; thence with the center line of Third
38 street, in a northern direction to the northern end of Third street;
39 thence continuing in the same direction, and on the same degree
40 as the last named line, to the corporate line; thence with the cor-
41 porate line, in a southwest direction, to the center of Hale ave-
42 nue, at the northeast corner of the first ward; thence with the
43 center of Hale avenue, in a southeast direction, to Center street;
44 thence with Center street, in an eastern direction, and with the
45 line of the first ward, reversing its course to the intersection of
46 the center line of Center street with the center line of Mercer

47 street; thence with the center line of Mercer street, in a south-
48 west direction to its intersection with the center line of Main
49 street; thence with the center line of Main street to its intersec-
50 tion with the center line of Fellers street; thence with the cen-
51 ter line of Fellers street, in a southern direction, to its intersec-
52 tion with the center line of Princeton avenue; thence with the
53 center line of Princeton avenue, in an eastern direction, to its
54 intersection with the center of the Ingleside road; thence with
55 the center of the Ingleside road, in a southeast direction, to the
56 point of beginning.

57 THIRD WARD.

58 All the following described boundary shall constitute the
59 third ward of the said city, that is to say: All that territory
60 lying within the corporate limits of said city east, northeast and
61 southeast of the second ward, and not included in the boundaries
62 of either the first or second wards.

Municipal Authorities.

Sec. 4. The municipal authorities of the said city of Prince-
2 ton shall consist of a mayor, recorder and three councilmen, who
3 shall constitute the council of said city.

Exercise of Corporate Powers.

Sec. 5. All the corporate powers and functions pertaining
2 to said city shall be exercised by its council, or under its authori-
3 ty, in the corporate name of said city, unless otherwise provided
4 by state law or municipal ordinance.

Subordinate Officers.

Sec. 6. The council shall appoint a recorder, and in its
2 discretion a superintendent of streets, city engineer, who shall
3 be the same person as superintendent of streets, chief of police,
4 city attorney, and all other officers whose offices may be estab-
5 lished by ordinance of the council or by this act, and such offi-
6 cers shall hold the respective offices to which they are appointed
7 during the pleasure of the council and until their successors are
8 appointed and qualified. The several offices, or any two or more
9 of them, may be held by the same person, and such officers shall
10 receive such compensation as the council may prescribe, by or-

11 dinance or order, unless said compensation be fixed by this act,
12 and the same shall not be increased or diminished during the
13 term for which the appointment was made.

Eligibility of Officers.

Sec. 7. No person shall be eligible to the office of mayor,
2 recorder or councilman, unless at the time of his election he is
3 legally entitled to vote in the city election for member of the
4 common council; and he, or his wife, was for the preceding year
5 assessed with taxes upon real or personal property within the
6 said city, of the assessed aggregate value of at least three hun-
7 dred dollars, and shall actually have paid the taxes so assessed.

Election of Officers.

Sec. 8. On the first Tuesday in June, one thousand nine
2 hundred and fifteen, and every two years thereafter, on the first
3 Tuesday in June, there shall be elected by the qualified voters of
4 said city a mayor, and by the qualified voters of each ward one
5 councilman. The term of office of said mayor and councilmen
6 shall be for the period of two years, commencing on the first day
7 of July, next after their election, and until their successors shall
8 be elected and qualified.

Who Are Voters.

Sec. 9. Every male person residing in said city shall be en-
2 titled to vote for all officers elected under this act; but no per-
3 son who is a minor, or of unsound mind, or a pauper, or who is
4 under conviction of treason, or bribery in an election, or who
5 has not been a resident of this state for one year and of said city
6 for six months next preceding the election at which he desires to
7 vote shall be permitted to vote therein.

Registration of Voters.

Sec. 10. All qualified voters within the city of Princeton
2 entitled to vote in the municipal election held therein shall be
3 registered in like manner as are the qualified voters in state and
4 county elections, and the state laws of the state of West Virginia
5 in effect at the time of such registration shall in all things apply
6 thereto; except the fee for such registration shall be five cents
7 for each qualified voter so registered, and the powers conferred
8 upon the county court by the state laws in reference to the regis-

9 tration of voters are hereby conferred upon the council of said
10 city of Princeton.

General Election.

Sec. 11. In all elections by the people the mode of voting
2 shall be by ballot, but the voters shall be left free to vote an open,
3 sealed or secret ballot, as they may elect. The election in said
4 city shall be held and conducted and the result thereof certified,
5 returned and finally determined under the laws in force in this
6 state relating to general elections, except that the persons con-
7 ducting said elections shall, on the day after the election is held,
8 deliver the ballots, tally sheets and poll books to the recorder,
9 and thereafter the council of said city shall meet within five days
10 (Sundays excepted) after said election and canvass the returns
11 of said election, and declare the result thereof, and in all respects
12 comply with the requirements of the statute of the state rela-
13-14 ting to elections. The corporate authorities of said city shall per-
15 form all duties in relation to such elections required by general law
16 of the county court and officers in effect on the day of said elec-
17 tion and each succeeding election under this charter. And the
18 provisions of the code in effect on the date of said election, con-
19 cerning elections by the people, shall govern such elections and
20 be applicable thereto, and the penalties therein prescribed for
21 offenses relating to elections shall be enforced against the offend-
22 ers of such corporate elections; and the said act shall have the
23 same force and effect as if it were specially applicable in such
24 corporate elections and was by this act re-enacted in *extenso*;
25 except as above modified as to the time in which the returns of
26 the election and canvass thereof shall be made.

Tie Vote; How Decided.

Sec. 12. Whenever two or more persons receive an equal
2 number of votes for mayor, or councilman, such ties shall be de-
3 cided by the council in existence at the time the election is held;
4 *provided*, that the council in office at the time of the institution
5 of such contest proceeding shall hold over and remain in office
6 for the purpose of passing upon and deciding such contest, and
7 for such purposes only; and nothing herein provided shall be con-
8 strued to interfere with the duties, power and authority of the
9 new or incoming council.

Contested Elections.

Sec. 13. All contested elections shall be heard and determined by the council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in contests for county and district officers, and the council by their proceedings in such cases shall, as nearly as practicable, conform with like proceedings of the county court in such cases.

Vacancy in Office.

Sec. 14. Whenever a vacancy from any cause shall occur in any office, the council shall by a majority vote of those present fill such vacancy; and, in case of a vacancy in the office of councilman or mayor, the two remaining councilmen and recorder shall fill said vacancy.

Appointment of Additional Officers and Defining Their Duties and Fixing Compensation for Such Officers.

Sec. 15. The council shall also have authority to provide by ordinance for the appointment of such other officers as shall be necessary and proper, to carry into full force and authority the power, capacity, jurisdiction and duties of said city, which are or shall be vested therein or in the council, or in the mayor, or any other officer or body of officers, thereof, and to grant to the officers so appointed the power necessary or proper for the purpose above mentioned. The council, by ordinance, shall define the duties of all officers so appointed, and may provide them a reasonable salary, which shall be payable out of the city treasury, which salary shall not be increased or diminished during their term of office, and shall require and take from all of them whose duty it shall be to receive its funds, assets or property, or have charge of the same, such bonds, obligations, or other writing as they shall deem necessary or proper to insure the faithful performance of their several duties. All officers elected may be removed by the council from office for intemperance, gross immorality, gambling, malfeasance or misfeasance in office, or inability to perform the duties of their respective office; any appointed officer who holds his office at the pleasure of the council, may be removed from his office for cause, after due notice. The chief of police shall have all power, rights and privileges within the corporate limits of said city in regard to the arrest

24 of persons, the collection of claims and the execution and re-
25 turn of process that can be legally exercised by a constable of a
26 district within this state; and may without having any warrant
27 or other process therefor, arrest any person who commits any of-
28 fense against the laws of this state or infraction of the ordinances
29 of said city, in his presence. He shall be *ex-officio* the keeper
30 of the city jail, and have charge of the city prisoners confined
31 therein, and may confine any person arrested by him in the city
32 jail until such time as the charge against such person can be in-
33 quired into by the mayor. Any person fined by the recorder, for
34 infraction of any of the ordinances of the city, may pay such fine
35 to either the recorder or the chief of police; and the said chief
36 of police and his sureties shall be liable for all fines, penalties
37 and forfeitures that a constable of a district is liable for in the
38 same court that the said fine, penalties and forfeitures are now
39 recovered against a district constable. It shall be the duty of
40 the treasurer to collect the city taxes, licenses, levies, assess-
41 ments, and other such city claims as are placed in his hands
42 for collection by the council, and he may distrain and sell there-
43 for in like manner as a sheriff may distrain and sell for state
44 taxes; and he shall, in all other respects, have the same powers,
45 as a sheriff to enforce the payment and collection thereof.

Sec. 16. The judge of the circuit court of Mercer county,
2 either in term or vacation, and upon the petition in writing of
3 at least twenty taxpayers and voters of said city, stating the rea-
4 sons and charge for which said removal is asked, after ten days'
5 notice, may remove the mayor or any councilman of said city for
6 any cause mentioned in the preceding section for the removal
7 of its officials. And in case of such removal from office said
8 judge shall fill the vacancy caused by such removal, and the per-
9 son so appointed shall possess all the qualifications for council-
10 men or mayor as mentioned in this act, and shall serve until the
11 next election, or until his successor is elected and qualified.

Bond.

Sec. 17. All bonds, obligations or other writing taken in
2 pursuance of any provisions of this act or under the provisions
3 of any order of said city, shall be made payable to "city of
4 Princeton", and the obligors therein and their heirs, executors,
5 administrators and assigns bound thereby shall be subject to the
6 same proceedings on such bonds, obligations or writings for en-

7 forcing the conditions of the terms thereof, by motion or other-
8 wise, before any court of record or justice of the peace having
9 jurisdiction thereof, held or acting in or for said Mercer county,
10 or any district thereof or elsewhere, that the sheriff or collector
11 of said county and his sureties are or shall be subject to on his
12 bond taken for the enforcement of the duties in the payment of
13 the county levy.

Oaths of Office.

Sec. 18. The mayor, recorder and councilmen, and all
2 other officers provided for in this act, shall each, before entering
3 upon the duties of their offices, and within fifteen days after re-
4 ceiving their certificates of election or appointment, take the
5 oath or affirmation prescribed by law for all officers in this state,
6 and make oath or affirmation that they will truly, faithfully and
7 impartially, to the best of their ability, discharge the duties of
8 their respective offices so long as they continue therein. Said
9 oath or affirmation may be taken before any person authorized
10 to administer oaths under the laws in force at the time same is
11 taken, or before the mayor or recorder of said city; but in any
12 event a copy of said oath of said officer shall be filed with the
13 recorder.

Tenure of Office.

Sec. 19. The mayor, and councilmen, shall enter upon the
2 duties of their offices upon the first day of July next after their
3 election, and continue for the period of two years, and the re-
4 corder, and all appointed officers, shall enter upon the duties of
5 their offices, as soon as they have qualified; and all officers, both
6 elected and appointed, shall remain in office until their successors
7 are elected or appointed and qualified, or until removed there-
8 from in the manner prescribed by law.

Ineligibility or Failure to Qualify.

Sec. 20. If any person elected to any office shall not be elig-
2 ible thereto under the provisions of this act, or shall fail to qual-
3 ify as herein required, the council shall declare his said office
4 vacant and proceed to fill the vacancy as required by this act.

Powers and Duties of the Mayor.

Sec. 21. The mayor of said city shall be chairman of its
2 council, shall preside at the meeting of the council; and, in the

3 absence of the recorder from the city or his inability to act, shall
4 perform the same duties as the recorder, in so far as they apper-
5 tain to the preservation of peace and good order in the said city.
6 And to that end he shall, in the absence or inability of the said
7 recorder, have the power and authority to cause the arrest of all
8 persons violating the ordinances of said city, and try the same,
9 in like manner as the recorder, and impose fines and penalties
10 upon all such persons he may deem guilty of such violations. He
11 shall from time to time recommend to the council such measures
12 as he may deem useful and needful for the welfare of the city.
13 For his services the mayor shall receive the sum of two hundred
14 dollars per year, to be paid out of the city treasury, and no other
15 fees, emoluments, commissions, salaries or costs shall be allowed
16 to him.

Powers and Duties of Recorder.

Sec. 22. The recorder shall keep an accurate record of all
2 the proceedings of the council, and have charge of and preserve
3 the records of the city. In case of the absence of the mayor from
4 the city, or his inability from any cause to act, or during any
5 vacancy in the office of mayor, the recorder shall perform such
6 duties of the mayor as pertain to the office of mayor, and to that
7 end in addition to the other powers herein conferred upon him,
8 the recorder is hereby vested with all the powers necessary for
9 the performance of the duties of mayor, while acting as such,
10 including the authority of the mayor pertaining to civil suits. He
11 shall also be a conservator of peace within the said city. He shall
12 especially see that the orders, by-laws, ordinances, acts and reso-
13 lutions of the council are faithfully executed. He shall be *ex-officio*
14 a justice of the peace within the said city and shall within the
15 same have, possess and exercise all the powers and perform all the
16 duties vested by law in a justice of the peace, except he shall have
17 no jurisdiction in civil causes of action arising out of the cor-
18 porate limits of the city, unless the defendant resides or is found
19 therein and process therein served upon him. He shall have the
20 same powers to issue attachments in a civil suit as a justice of the
21 peace of his county has; but, in such case, he shall have no power
22 to try the same, but such attachment shall be made returnable and
23 heard before a justice of the peace of his county. Any warrant
24 issued by him, or other process, may be executed at any place in
25 said county. He shall have control of the police of the said city

26 and may appoint special police officers, whenever he may deem it
27 necessary, and may suspend any police officer of the city until
28 the next regular meeting of the council. And it shall be his duty
29 especially to see that the peace and good order of the city are
30 preserved, and that persons and property therein are protected,
31 and to this end he may arrest or cause the arrest and detention
32 of all violators of the laws of this state and ordinances of the city,
33 before issuing his warrant therefor, if the offense is committed
34 in his presence. He shall have power to issue his warrant for
35 the arrest and apprehension of all persons violating the ordinances
36 of the city, and shall have power to try the same and impose upon
37 such violators of the ordinances of said city such fines and penal-
38 ties as are prescribed by the ordinances thereof. He shall have the
39 power to issue executions for all fines, penalties and costs imposed
40 by him, or he may require the immediate payment thereof, and in
41 default of such payment, he may commit the party in default to
42 the jail of the said county, or other place of imprisonment used
43 by such corporation, if there be one, until the fine or penalty and
44 the costs be paid; but the imprisonment in such cases shall not
45 exceed thirty days. And in all cases where a person is sentenced
46 to imprisonment or to the payment of a fine of ten dollars or
47 more, (and in no case shall a judgment for a fine be for less than
48 ten dollars if the defendant, his agent or attorney object to a less
49 fine being imposed) such person shall be allowed an appeal from
50 such decision to the criminal court of the county of Mercer, upon
51 the execution of an appeal bond with security deemed sufficient
52 by said recorder, and the cost in the criminal court in case said
53 judgment be affirmed, with condition that the person proposing
54 to appeal will perform and satisfy any judgment which may be
55 rendered against him by the criminal court on such appeal. If
56 such appeal be taken the warrant of arrest, if any, a transcript of
57 the judgment, the appeal bond and other papers in the case shall
58 be forthwith delivered by the said recorder to the clerk of said
59 court, and the said court shall proceed to try the case as upon an
60 indictment or presentment and render such judgment, including
61 costs, as the law and evidence may require. The expense of main-
62 taining any person committed to jail as hereinbefore set forth by
63 the recorder, except it be to answer an indictment, shall be paid
64 by the said city and taxed as costs against the defendant. The
65 said recorder shall likewise be *ex-officio* treasurer and assessor of
66 said city, and as such perform all the duties herein in this act im-

67 posed upon the treasurer and assessor of said city, and be vested
68 with all the powers herein vested in and upon the treasurer and
69 assessor of said city. But the same person shall not be eligible to
70 the office of recorder of said city for two successive terms. For
71 his services as recorder, police judge, assessor and treasurer as in
72 this act set forth, the said recorder shall receive the sum of eighty
73 dollars per month, payable out of the city treasury, and no other
74 fees, commissions, emoluments, salaries or compensation whatever
75 shall be allowed him for such services. All fees, which but for
76 this act, he would be entitled to recover and retain in cases tried
77 by him, shall nevertheless be charged and recovered by him and
78 paid into the city treasury at the end of each month for the use
79 and benefit of the city; and a statement thereof showing such
80 money deposited in the city treasury shall be exhibited by the said
81 recorder to the council of said city at its next succeeding meeting,
82 at which time he shall be charged on the minute book, or such
83 other proper book as shows his account, with the amount of such
84 fees and costs so paid into the city treasury.

Quorum.

Sec. 23. The presence of the mayor, or *ex-officio* mayor and
2 two members of said council shall be necessary to make a quorum
3 for the transaction of business at all meetings of the council of
4 said city.

Record of Minutes and Ordinances.

Sec. 24. The council shall cause to be kept by the recorder,
2 in a well bound book to be called the "minute book," an accurate
3 record of all its proceedings, ordinances, acts, orders and resolu-
4 tions, and in another to be called "ordinance book," accurate copies
5 of all general ordinances adopted by the council; both of which
6 shall be accurately indexed and open to inspection of any one re-
7 quired to pay taxes in the city, or who may be otherwise interested
8 therein. All oaths and bonds of officers in the city, and all papers
9 of the council shall be endorsed, filed and securely kept by the
10 recorder. The bonds of officers shall be recorded in a well bound
11 book to be called "record of bonds." The recorder shall perform
12 such other duties as by ordinance of the council may be prescribed.
13 The transcript of ordinances, acts, orders and resolutions certified
14 by the recorder under the seal of the city shall be admissible in
15 evidence in any court, or before any justice.

Reading of Minutes.

Sec. 25. At each meeting of the council the proceedings of
2 the last meeting shall be read and corrected, if erroneous, and
3 signed by the presiding officer for the time being. Upon the call
4 of any member the ayes and noes on any question shall be taken
5 and recorded by the recorder in the "minute book." The call of
6 the members for such vote shall be made alphabetically.

Who Shall Vote in Council.

Sec. 26. The mayor, or in his absence the recorder, shall
2 preside at the meetings of said council; said recorder shall vote as
3 a member of said council, but said mayor shall have no vote except
4 in case of a tie.

Meetings of Council.

Sec. 27. The regular meetings of the council shall be pub-
2 licly held at such times and at such places in the city as they shall
3 from time to time ordain and appoint; and it shall be lawful for
4 the council by ordinance to vest in any officer of the city, or in
5 any member, or number of members, of its own body, the authority
6 to call special meetings and prescribe the mode in which notice of
7 such special meetings shall be given; if a majority of the members
8 of the council do not attend any regular or special meeting, those
9 in attendance shall have authority to compel the attendance of
10 absent members under such reasonable penalties as they may think
11 proper to impose by ordinance. All questions put to vote, except
12 such matters as hereinafter provided for, shall be decided by a
13 majority of the members present.

To Whom Money of City Shall Be Paid.

Sec. 28. All moneys belonging to the city shall be paid over
2 to the city treasurer; and no money shall be paid out by him, ex-
3 cept as the same shall have been appropriated by the council, and
4 upon an order signed by the mayor and recorder, and not other-
5 wise, except at the expiration of his term of office upon the order
6 of the council, signed by the mayor and recorder, he shall pay
7 over to his successor all the money remaining in his hands.

Duties and Powers of Council.

Sec. 29. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair the

3 roads and streets, alleys, pavements, sidewalks, cross walks, drains,
4 sewers and gutters therein, for the use of the citizens and the
5 public, and to improve and light the same, and keep them free
6 from obstructions of every kind; to regulate the width and kind
7 of pavements and sidewalks, footways, drains and gutters, and
8 cause the same to be kept in good order, free and clean by the
9 owners and occupants of the real property next adjacent thereto;
10 to establish markets, prescribe the time for holding the same. pro-
11 vide suitable and convenient buildings therefor, and prevent the
12 forestalling of said markets; to prevent injury or annoyance to
13 the public or to individuals from anything dangerous, offensive
14 or unwholesome; to prohibit or regulate slaughter houses, tan
15 houses and soap factories within the city limits; or the exercise
16 of any unhealthful or offensive business, trade or employment; to
17 abate all nuisances within the city limits, or to compel the abate-
18 ment or removal thereof, at the expense of the person causing the
19 same, or by or at the expense of the owner or occupant of the
20 ground on which said nuisance is placed or found; to be filled up,
21 raised or drained, by or at the expense of the owner, any city lot
22 or tract of land covered or subject to be covered by stagnant
23 water; to prevent horses, hogs, cattle, sheep or other animals, and
24 fowls of all kinds from going or being at large in such city, and as
25 one means of prevention to provide for impounding or confining
26 such animals and fowls at the expense of the owner thereof, and
27 upon the failure of the owner to reclaim, for the sale thereof; to
28 protect places of divine worship and to preserve order in and
29 about the premises when and where worship is held; to regulate
30 the keeping and sale of gunpowder, and other inflammable or
31 dangerous substances; and to provide for the regular building of
32 houses, or other structures, and to provide for the kind of material
33 to be used in the construction thereof, and for the making and
34 maintaining of division fences by the owners of adjoining prop-
35 erty, and for the proper drainage of city lots and other parcels of
36 land by or at the expense of the owner or occupant thereof; to pro-
37 vide against danger or damage by fire; to punish assault and bat-
38 tery; to prohibit the keeping or loitering in or visiting houses of
39 ill-fame, or loitering in saloons or upon the streets; to prevent lewd
40 or lascivious conduct, the sale or exhibition of indecent pictures
41 or papers or other representations; to prevent adultery and forni-
42 cation; to prohibit the carrying of concealed or dangerous weapons
43 within the corporate limits of said city; to punish drunkenness;

44 to punish larceny where the amount stolen is less than twenty
45 dollars; to prevent gambling, and the keeping and using of slot
46 machines and gaming devices; to prohibit anything against good
47 morals and common decency, and to fix punishment therefor; to
47-a prevent the desecration of the Sabbath day, profane swearing, the
48 illegal sale of intoxicating drinks, mixtures or preparations; to
49 protect the person of those residing or being in said city; to ap-
50 point, when necessary or advisable, a police force, permanent or
51 temporary; to assist the chief of police in the discharge of his
52 duty, and who, when appointed, to have the same power and au-
53 thority in and about the arrest of offenders, as the chief of police
54 may have; to build or purchase, or lease a suitable place of im-
55 prisonment within said city, for the safe keeping or punishment of
56 persons charged with or convicted of a violation of the ordinances
57 of the city, or they may adopt the county jail of Mercer county for
58 the purpose; to erect or authorize or prohibit the erection of gas,
59 water works, or electric works or all of them within the city limits,
60 or near the same; to require any company or person furnishing
61 gas, electricity or water to said city for the inhabitants thereof, to
62 put in standard meters for the measurement thereof, and may ap-
63 point any person to inspect the meters and remove the same, if
64 not standard and in good order; to prevent injury to such works,
65 or the pollution of any gas or water used or intended to be used
66 by the public or any individual; to require the extension of gas,
67 electric and water lines by such respective companies, to any and
68 all parts of the said city when the said council may deem the same
69 necessary; to provide for and regulate the weighing of hay, coal,
70 lumber, and other articles sold or kept within said city, and to
71 establish rates and charges for the weighing and measuring there-
72-73 of; to create by ordinance such committees and delegates such
74 authority thereto as may be necessary or advisable; to provide for
75 the annual assessment of taxable property therein, and for the rev-
76 enue for the city for municipal purposes, and to appropriate such
77 revenue to its expenses; and generally to have power to take such
78 measures as are deemed necessary or advisable to protect person
79 or property, public or private, within the city; to preserve peace,
80 quiet and good order therein and to promote the health, safety,
81 comfort and well being of the inhabitants thereof; to organize one
82 or more fire companies and provide necessary apparatus, tools, im-
83 plements, engines, or any of them, for their use, and in their dis-
84 cretion to organize a paid fire department; to make regulations

85 with respect to the erection and location of telephone, telegraph,
86 electric light or other poles by any individual or corporation; to
87 grant and regulate all franchises in, upon, over and under the
88 streets, alleys and public ways of said city, under such restriction
89 as shall be provided by ordinance; but no exclusive franchise shall
90 be granted by said council to any individual or corporation, nor
91 shall any franchise be granted for a longer period than fifty years.

92 The council shall have authority to pass all ordinances not
93 repugnant to the constitution and laws of the United States and
94 of this state, which shall be necessary and proper to carry into full
95 effect the power, authority, capacity and jurisdiction which is or
96 shall be granted to or vested in the said city, or in the council or
97 in any officer or body of officers of said city, and to enforce any
98 and all of the ordinances by reasonable fines and penalties, and
99 by imprisoning the offender or offenders, and upon the failure to
100 pay any fine or penalty imposed, may compel the offender to labor
101 without compensation at and upon any of the public works or
102 improvements undertaken, or to be undertaken, by said city, or to
103 labor at any work which the said council may lawfully employ
104 labor upon, at such reasonable rates per diem as the council may
105 fix, until any fine, or fines and costs upon any offender by said
106 city have been fully paid and discharged, after deducting rea-
107 sonable charges of support while in the custody of the officers of
108 the city; *provided, however*, that no fine shall be imposed exceed-
109 ing thirty dollars and costs, and that no person shall be impris-
110 oned or compelled to labor as aforesaid for more than thirty days
111 for any one offense. And in all cases where a fine is imposed for
112 an amount exceeding ten dollars and costs, or a person be in-
113 prisoned, or be compelled to labor as aforesaid for a greater term
114 than ten days, an appeal may be taken from such decision upon
115 the terms and conditions as appeals are taken from the judgment
116 of a justice of this state. Such fines and penalties shall be im-
117 posed and recovered, and such imprisonment inflicted and en-
118 forced by and under the judgment of the recorder of said city;
119 or in case of his absence or inability to act, by the mayor of said
120 city; or, if he be unable to act, then by any member of the coun-
121 cil, to be appointed by the council for that purpose; and for his
122 services in trying cases, whether civil, criminal or infractions
123 against ordinances, the recorder shall be entitled to charge and
124 collect such fees as are paid to justices of the peace for similar
125 services, which shall be paid into the city treasury. And in all

126 such cases the chief of police, or other officer performing the ser-
127 vice shall be entitled to receive such fees as are paid to constables
128 for similar services, which shall be paid to the city treasurer at
129 the end of each month, taking proper vouchers therefor; *pro-*
130 *vided, further,* that the fee for making any arrest shall be one
131 dollar, whether such officer be the chief of police or other officer.
132 In addition to the powers above enumerated, the said city coun-
133 cil shall have power to build, construct, maintain and oper-
134 ate a sufficient sewerage system and water works, as
135 may be necessary for the proper supply of water to
136 the inhabitants of the said city, for both public and pri-
137 vate use, and said city shall have the power to purchase or con-
138 demn any water works now in the said city or hereafter placed
139 therein by any party other than said city, whenever the
140 council of said city shall deem proper, and such order shall have
141 been ratified by a vote of the qualified voters of said city, at an
142 election called for that purpose, with due notice, and at least two-
143 thirds of the votes cast at said election shall vote for the ratifi-
144 cation of said council to purchase or condemn said water works;
145 and the said city shall have the power to enlarge the said water
146 works, if so purchased or condemned, by putting additional reser-
147 voirs either within or out of said city; and the said city shall
148 have the right, if its council shall deem proper, and the order of
149 said council be ratified by vote as aforesaid, to build, construct,
150 maintain, and operate such water works in the said city as may
151 be deemed proper without the purchase or acquisition of any
152 water works then in said city and said city shall have the right
153 to lay pipes and mains for the proper distribution of said water,
154 either in or out of said city, as shall be necessary for the proper
155-56 distribution of same, and for that purpose may ac-
157 quire by lease, purchase or condemnation all such lands
158 as shall be necessary, either within or without the said city,
159 or they may contract for such work to be done, in either event
160 to supply an adequate supply of pure, healthful water for said
161 city, and do all things necessary to supply the said city and the
162 inhabitants thereof with water as aforesaid; and the said city
163 may acquire by purchase or condemnation any electric light plant
164 now in said city or hereafter placed therein by any party other
165 than said city, and shall have the right to build, construct, main-
166 tain and operate such plant for furnishing electricity for said
167 city, and for the inhabitants thereof, but no electric light plant

168 shall be purchased, condemned, or built or operated unless voted
169 on by the qualified voters of said city at an election called and
170 held as aforesaid, and the same be ratified by a two-thirds vote
171 of all votes cast at said election. Whenever anything for which
172 a state license is required is to be done in said city, the council
173 may require a city license therefor and may impose a tax thereon,
174 for the use of said city.

Police Docket.

Sec. 30. A well bound book, indexed, to be denominated
2 the "police docket," shall be kept in the office of the recorder,
3 in which shall be noted each case brought before or tried by him,
4 together with the proceedings therein, including a statement of
5 the complaint, the warrant or summons, the return, the fact of
6 appearance, or non-appearance, the defense, the hearing, the judg-
7 ment, the costs, and in case the judgment be one of conviction
8-9 the action taken to enforce the same. The record of each case
10 shall be signed by the recorder, and the original papers thereof, if
11 no appeal be taken, shall be kept together and preserved in his
12 office.

Annual Levy.

Sec. 31. The council shall be governed in all respects in
2 laying the annual levy, or any additional or special levy, by chap-
3 ter nine of the acts of the extraordinary session of the legislature
4 of West Virginia, of one thousand nine hundred and eight, except
5 that they may include a poll tax of not exceeding one dollar each
6 year, upon each able bodied man therein, who is above the age
7 of twenty-one years and not over fifty years of age; which poll
8 tax shall be used exclusively for opening, improving and main-
9 taining roads, streets and alleys of the city, and shall designate
10 the same as the "street tax;" and the said council may also im-
11 pose such license tax upon dogs and other animals as they deem
12 proper, and collect the same from the owners of such animals,
13 as other taxes are collected, and prescribe such rules, regulations
14 and penalties governing the payment of such tax on animals, as
15 they may deem reasonable. And the general annual levy upon the
16 taxable property within the corporate limits of said city shall not
17 exceed the sum of thirty-five cents upon each one hundred dol-
18 lars valuation in addition to the amount required to be laid to
19 create a sinking fund and pay the interest on bonds which have
20 heretofore been issued by said city of Princeton. But in addition

21 to said levies herein mentioned, the council of said city for the
22 years one thousand nine hundred and fifteen, one thousand nine
23 hundred and sixteen, one thousand nine hundred and seventeen
24 and one thousand nine hundred and eighteen, are empowered to
25 lay a special levy not to exceed five cents on each one hundred
26 dollars valuation of the property in said city for the purpose of
27 paying off any outstanding orders issued against the treasury of
28 said city prior to July first, one thousand nine hundred and four-
29 teen, or debts contracted prior to said date, which special levy,
30 when collected, shall be used for no other purpose than for the
31 payment of said outstanding orders issued prior to July first, one
32 thousand nine hundred and fourteen, and such prior indebtedness.

Annual Assessment.

Sec. 32. It shall be the duty of the treasurer to make an
2 assessment of the property within the city subject to taxation
3 substantially in the manner and form in which assessments are
4 made by the assessor of the county, and return the same to the
5 council on or before the first day of June of each year, and for
6 this purpose he shall have all the powers conferred by law upon
7 county assessors. He shall list the number of dogs and other
8 animals subject to license tax in the city, and the names of the
9 persons owning the same, which list shall be returned to the coun-
10 cil at the same time his assessment books are returned. But in
11 making his assessment on real and personal property he shall be
12 governed by the assessment on real and personal property for state
13 and county purposes for said year, and the value placed on said
14 property shall not exceed the value of such assessment for county
15 and state purposes. In order to aid the assessor in ascertaining
16-17 the property subject to taxation by said city, he shall have
18 access to all books and public records of said Mercer county, with-
19 out expense to him or said city, and he shall have the same power
20 and be subject to the same penalties in ascertaining and assessing
21 the property and subjects of taxation in said city, as are granted
22 and imposed on the county assessors throughout the state by gen-
23 eral law; and the council shall have authority to prescribe by gen-
24 eral ordinance, such other rules and regulations as may be neces-
25 sary to enable and require such treasurer to ascertain and properly
26 assess all property liable to be taxed by said city, so that such
27 assessment and taxation shall be uniform and equal, and the
28 council may enforce such rules and regulations by reasonable fines

29 to be imposed on any one failing to comply therewith. When he
30 shall complete his assessment book he shall deliver the same when
31 sworn to, to the city council.

Lien for Taxes.

Sec. 33. There shall be a lien on all real estate within the
2 said city for the city taxes assessed thereon, and for all fines and
3 penalties assessed against or imposed upon the owners thereof, by
4 the authorities of said city, including expenses for making side-
5 walks and streets from the time the same are so assessed or im-
6 posed, which shall have priority over all the other liens except taxes
7 due the United States and the lien for taxes due the state, county
8 and district, and such lien may be enforced by the council in the
9 manner provided by law for the enforcement of the lien for county
10 taxes. And the laws of the state of West Virginia in relation to
11 delinquent taxes, and the sale of property therefor, are hereby and
12 in all respects adopted as to all proceedings in relation to taxes for
13 city purposes delinquent in said city. And the powers and duties
14 conferred by the laws of said state upon county courts and their
15 clerks and sheriffs in regard to delinquent taxes and their collec-
16 tion, are hereby in all things conferred upon said city council, its
17 recorder and other city officials whose duties are of a similar na-
18 ture as those of said county officials, in so far as the same may be
19 directly or by implication applicable in the collection of delinquent
20 taxes due said city.

Collection of Taxes.

Sec. 34. It shall be the duty of the city treasurer when the
2 extended copies of the assessor's books are completed, to receive
3 a copy thereof, receipting the council for the same, and it shall
4 be his duty to collect from the parties the entire amount of the
5 taxes with which they are severally charged therein, and may pro-
6 ceed to collect the same at any time after the first day of August,
7 and may enforce the payment thereof by levy upon the personal
8 property, and sale thereof, of the person so charged with taxes at
9 any time after the first of October next, after said taxes are as-
10 sessed. Said taxes shall be a lien upon the property
11 upon which they are assessed, from and after the time the
11-a assessor's books are completed, verified and returned to
12 the city council, and he shall write the word "paid,"

12-a opposite the name of each person who pays the taxes
13 against him, and shall also give to the person paying such taxes a
14 receipt therefor; *provided, however*, that said treasurer may dis-
15 train at any time for any taxes assessed against a person who is
16 about to remove, or who has removed from said city, after such
17 taxes are assessed, and the books returned as aforesaid. He shall
18 also receive such other moneys of the city as he is authorized by
19 this act to receive, and also all moneys ordered by the council to
20 be paid to him, giving receipt therefor to the parties paying the
21 same, and shall keep an accurate, itemized account of all money
22 received by him. His books shall, at all times, be open for the in-
23 spection of the mayor, council, city recorder, and to any taxpayer
24 of the city. He shall also make up monthly statements of the
25 money received by him and the amount paid out by him and to
26 whom, showing the amounts in his hands from all sources, and
27 shall post the same in the mayor's office on the last day of each
28 month. He shall pay out the money in his hands upon the order
29 of the city council, upon orders signed by the mayor and the re-
30 corder. He shall, on or before the expiration of the term of office
31 of the mayor, and at such other times as the council may require,
32 present to the council a full and complete statement of all the
33 moneys with which he is chargeable, or that have been received by
34 him and not previously accounted for, and shall at the same time,
35 in like manner, furnish a complete statement, by separate items,
36 of all disbursements made by him during such period, with his
37 vouchers evidencing the same. He shall receive all taxes upon
38 licenses and receipt to the party paying the same, by endorsement
39 upon the permit granted by order of the council, or mayor as the
40 case may be. He shall, upon the expiration of his term of office,
41 turn over to the council all books and other property in his posses-
42 sion belonging to the city, except the money, in his hands, which
43 he shall turn over to his successor, upon the order of the council,
44 as hereinbefore provided; and shall, before entering upon the du-
45 ties of his office, execute a bond with good security payable to
46 said city in a penalty of not less than ten thousand dollars, con-
47 ditioned that he will faithfully discharge the duties of his office
48 and account for and pay over as required by law and the orders,
49 ordinances, rules and regulations of the council of said city, all
50 money which shall come into his hands, which bonds shall be sub-
51 ject to the approval of the council. He shall be chargeable with

52 all the city taxes, levies and assessments and money of the city,
53 which shall come into his hands and shall account therefor.

Additional Duties of Treasurer.

Sec. 35. In addition to the other duties of the treasurer,
2 it shall be his duty on or before the first day of August, in each
3 year, to make a copy from the real and personal property books
4 of the assessor of Mercer county of all property shown to be
5 liable for taxes within the limits of the city of Princeton, and
6 to certify such under his hand as a true and correct copy thereof,
7 and to deliver the same to the council, to assist said council in
8 preparing the annual estimate of expenses to be certified as a
9 basis for the annual levy. After such annual levy is made in each
10 year, it shall be the duty of the treasurer to extend said levy upon
11 said real estate and personal property books for said city, and
12 to prepare proper tax tickets therefrom against all owners of
13 real estate and personal property subject to taxation in said city.

License.

Sec. 36. The council shall prescribe by ordinance the time
2 and manner in which licenses of all kinds shall be applied for
3 and granted, and shall require the payment of the tax thereon
4 to the city treasurer before the delivery thereof to the person ap-
5-6 plying therefor. The council may revoke any such license for
7 a breach of any of the conditions, or for other good cause shown;
8 but the person holding such license, must first have reasonable no-
9 tice of the time and place of hearing and adjudicating the mat-
10 ter, as well as the cause alleged; and shall be entitled to be heard
11 in person or by counsel, in opposition to such revocation. The
12 term for which license provided for in this charter shall be grant-
13 ed shall be governed by general law providing for state license.

Condemnation of Land for Public Use.

Sec. 37. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation
3 of real estate for streets, alleys, roads, drains, sewers, market
4 grounds, city prison, city hall, water works, electric light plant
5 or other works, or purposes of public utility. Such proceedings
6 shall conform to the provisions of chapter forty-two of the code
7 of West Virginia, and the expenses thereof shall be borne by
8 the city, except in cases where it is proper under said chapter

9 to charge said expenses or any part thereof against the defend-
10 ant.

Provisions for Bonding City.

Sec. 38. The council of the said city shall have the right
2 to bond the said city for the purpose of paving the said streets,
3 or for other permanent improvements, whenever the council
4 thereof may deem the same necessary; but the aggregate indebt-
5 edness of the said city for all purposes shall never at any time
6 exceed five per centum of the assessed valuation of the taxable
7 property therein according to the last assessment next proceed-
8 said date. The said council shall provide a fund for the pay-
9 ment of the interest annually on the said indebtedness so cre-
10 ated, and to pay the principal thereof within and not exceeding
11 thirty-four years; *provided*, that no debt shall be contracted
12 hereunder, unless all questions connected with the same be first
13 submitted to a vote of the qualified voters of said city, and have
14 received three-fifths of all the votes cast for and against the
15 same.

No Indebtedness to Be Created for Current Expenses.

Sec. 39. The council of the said city shall not, at any time,
2 or for any purpose, create any indebtedness against the said
3 city except as provided in the next preceding section, exceeding
4 the available assets of the said city for the current year; and if
5 the said council shall create such indebtedness or issue orders
6 on the said city for an amount exceeding the amount of money
7 collected for that year for said city from all sources, and the
8 amount of money then in the treasury appropriated, the mem-
9 bers of said council shall be severally and jointly liable for the
10 payment of the excess of such indebtedness or orders over the
11 amount of money applicable thereto, and the same may be recov-
12 ered in any court having jurisdiction thereof. And any coun-
13 cilman violating the provisions of this section shall be deemed
14 guilty of malfeasance in office, and may be removed as such
15 councilman in pursuance of section fifteen of this act. *Pro-*
16 *vided, however*, this shall not be applicable to such members who
17 have voted against said excess; and, *provided, further*, that the
18 vote of each member of council shall be recorded.

Streets, Roads and Bridges.

Sec. 40. The said city shall construct, conduct and main-

tain its own roads and streets, and by reason thereof shall not be required to pay any district or county road levies for the construction and maintenance of roads outside of the city limits.

Existing Ordinances.

Sec. 41. All ordinances, by-laws, resolutions and rules of the city of Princeton in force on the day preceding the passage of this act, which are not inconsistent therewith, shall be and remain in full force over the whole boundary of said city of Princeton, as established by this act, until the same are amended or repealed by the council of said city, and the officers elected on the first Tuesday in May, one thousand nine hundred and thirteen, in the city of Princeton, shall remain in office until their successors under this act are elected and qualified as hereinbefore provided; and after this act takes effect, shall have jurisdiction over all the territory embraced in the boundary specified in this act, and shall perform all the duties of such respective officers under this act; but nothing in this act shall be construed or held to in any way affect or impair any of the bonds, obligations or indebtedness of the city of Princeton issued or contracted prior to the passage of this act; but, on the contrary, the said city of Princeton shall be liable for all the bonds, obligations and indebtedness of the city of Princeton as though the same had been created under this charter.

Power to Make and Maintain Sidewalks, Streets, Etc.

Sec. 42. The council shall have power to provide for the construction of sidewalks upon the streets of the city, and assess the expense of the construction of the same upon the property abutting thereon and the owners thereof, and collect the same in the same manner as other taxes and levies are collected, and shall have power to macadamize and pave the streets of the said city, or any of them, and assess part of the expenses of macadamizing and paving not to exceed one-third thereof upon the abutting property on each side thereof, and the owners thereof, and collect the same in the same manner as other taxes and levies are collected; and such assessments for sidewalks, macadamizing and paving shall be a lien upon such abutting property, the same as other taxes and levies within said city upon the property therein. *Provided*, that nothing herein shall be construed to prevent the council from arranging for the construc-

tion of any such improvement, by agreement with the abutting property owners, if the council shall so desire and deem it advisable to do so.

The Duty of the Council to Appoint Officers to Hold Elections Hereunder.

Sec. 43. The council of the city of Princeton shall provide places for voting in each ward in all municipal elections of the city, and appoint commissioners residing therein to hold and conduct the election hereinbefore provided to be held, and shall pass all proper ordinances to give this act full force and effect.

Duties of City Attorney.

Sec. 44. The city attorney, if there be one, shall be the legal adviser of the city and all of its officers in all matters arising, and in which legal proceedings may be taken; he shall prosecute all suits, actions and proceedings instituted on behalf of said city, and defend all suits and actions against said city, and when requested in writing shall give his written opinion to the mayor or council or any standing committee thereof upon such legal questions as may be referred to him affecting the city's interest; he shall perform such other duties as may be required. It shall be his duty to attend the sessions of the council when requested and prosecute all trials before said mayor and all appeals that are taken from such mayor to the criminal or circuit court, and for his services he shall receive such compensation as the council shall provide, and in addition thereto in all criminal prosecutions conducted by said city attorney, where there is a conviction of the defendant, there shall be taxed an attorney's fee in favor of said city attorney, not less than five nor more than ten dollars, which said fee shall be taxed as a part of the costs of the case.

Where Money to Be Deposited.

Sec. 45. It shall be the duty of the city treasurer to keep all funds of the city in some bank or banks within said city, which shall pay interest on such deposits and on the average daily balances of such funds of the per cent. equal, at least, to that paid by state depositories on all funds of the state of West Virginia and in the same manner and at the same time. If no

7 bank within said city is willing at any time to receive deposits
8 of the treasurer and pay such interest thereon, the treasurer shall
9 report this fact to the council, whereupon the council shall des-
10 ignate the bank or banks in which, he shall deposit said funds for
11 the time being and until some bank in said city will receive such
12 deposits on such terms.

Salaries of Councilmen.

Sec. 46. Each councilman of said city shall receive from
2 the city to be paid out of the city treasury the sum of twenty-
3 five dollars a year, and there shall be deducted from the salary
4 of the mayor, recorder and councilman two dollars for each time
5 either of said officers shall be absent from a regular meeting of
6 said council, unless such absence be caused by sickness or ab-
7 sence from the city.

Repeal of Inconsistent Acts and Ordinances.

Sec. 47. All ordinances of the city of Princeton, as they
2 exist at the time of the passage of this act, which are inconsis-
3 ent therewith, are hereby abrogated, and all acts and parts of
4 acts inconsistent with any of the provisions of this act are here-
5 by repealed.

Senate Bill No. 261

AN ACT to amend and re-enact an act passed on the twenty-fourth
day of February, one thousand eight hundred and seventy-two,
entitled "An act to amend and re-enact the charter of the town
of Charles Town, in the county of Jefferson," as amended by
chapter one of the acts of one thousand nine hundred and seven,
extra session, and by chapter seventy-seven of the acts of one
thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

That the act passed on the twenty-fourth day of February, one
thousand eight hundred and seventy-two, entitled "An act to amend
and re-enact the charter of the town of Charles Town, in the county
of Jefferson," as amended and re-enacted by chapter one of the acts
of one thousand nine hundred and seven, extra session, and by chap-
ter seventy-seven of the acts of one thousand nine hundred and

thirteen, be and the same is hereby amended and re-enacted so as to read as follows:

Corporate Limits.

Section 1. The corporate limits of the town of Charles Town shall be as follows, to-wit:

Beginning at the corner of William H. Travers and Andrew Hunter, on the north side of Smithfield, Charles Town and Harper's Ferry turnpike, being 41.1 poles from the east side to town alley (figure 1 in plat of S. Howell Brown's survey of January eighteenth, one thousand eight hundred and seventy-two); running thence with the line of said Travers and Hunter, and also the line of Richard Hessey and the said Hunter, N. 20 degrees, 20 minutes, W. to the Winchester and Potomac railroad, and extending the same course in all 79.3 poles to a stake in James M. Ransom's field; thence parallel to Washington street S. 69 degrees, 40 minutes, W. 290 poles to a stake at the prolongation of the line of Mrs. Buskirk and Henry B. Davenport; thence in the direction of said line S. 20 degrees, 20 minutes, E. 10.8 poles to a stake at the west side of new road, where the same intersects the "old mill road;" thence with the west side of new road S. 20 degrees, 10 minutes, W. 52.9 poles, crossing the aforesaid turnpike to a stake in the line of said Davenport (5); and thence with the said line S. 17 degrees, 50 minutes, E. 30.9 poles to the south line of the "old Winchester road;" thence with it N. 69 degrees, 40 minutes, E. 36.05 poles to a point at the prolongation of the aforesaid line of Buskirk and Davenport; thence extending said course S. 20 degrees, 20 minutes, E. 147.12 poles to a stake in William Drew's field; thence parallel to Washington street N. 69 degrees, 40 minutes, E. 122 poles to a stake; thence S. 20 degrees, 20 minutes, E. 45.45 poles to a stake; thence N. 69 degrees, 40 minutes, E. 115.25 poles to a stake; thence N. 20 degrees, 20 minutes, W. 45.45 poles to a stake; thence N. 69 degrees, 40 minutes, E. 52.75 poles to a stake in George H. Tate's field (13); thence N. 20 degrees, 20 minutes, W. 150.18 poles to beginning; containing 460 acres.

Municipal Authorities.

Sec. 2. The municipal authorities of said town shall be a mayor and two councilmen from each ward who, together, shall be a common council.

Town Incorporate.

Sec. 3. The mayor and councilman as soon as they shall
2 be elected and qualified, as herein provided, shall be a body pol-
3 itic and corporate by the name of "The Corporation of Charles
4 Town," and shall have perpetual succession and a common seal;
5 and by that name may sue and be sued, plead and be impleaded,
6 contract and be contracted with, and may purchase and hold real
7 estate and other property necessary or proper to enable it to dis-
8 charge its duties, and needful for the good order, government and
9 welfare of said corporation.

Corporate Powers.

Sec. 4. All the corporate powers of the said town shall
2 be exercised by the said council or under its authority, except
3 when otherwise provided.

Election of Mayor and Councilmen

Sec. 5. The mayor and councilmen shall be elected by the
2 qualified voters of said corporation.

Wards; Elections Therein.

Sec. 6. The said town shall consist of four wards locat-
2 ed and bounded as follows: the first ward shall include all the
3 territory within the corporate limits lying north of Washington
4 street and the Summit Point road and west of George street;
5 the second ward, all the territory lying south of Washington
6 street and the Summit Point road and west of George street; the
7 third ward all the territory within said corporate limits lying
8 east of George street and south of Washington street; the fourth
9 ward all the territory within said corporate limits lying east of
10 George street and north of Washington street. Elections in said
11 corporation under this act shall be held on the fourth Thursday
12 in May, one thousand nine hundred and fifteen, and annually
13 thereafter on such Thursday, and shall be under the supervision
14 of three inspectors at each election precinct in said town, who
15 are to be appointed by the council, and who shall be governed by
16 such rules and regulations as the council may prescribe. The
17 council shall select and designate the voting places of the respec-
18 tive wards in the town.

Qualifications of Mayor, Etc.

Sec. 7. The mayor and councilmen must be, at the time
2 of their election and during their terms of office, owners in fee
3 of real estate in said corporation of the value of two hundred and
4 fifty dollars over and above all incumbrances, and be entitled
5 to vote for members of its common council.

Terms of Office.

Sec. 8. Their term of office shall be (except when to
2 fill vacancies) for two years, and until their successors are
3 elected and qualified, as herein provided; except that at the elec-
4 tion to be held on the fourth Thursday in May, one thousand nine
5 hundred and fifteen, there shall be elected one councilman from
6 the first, second and fourth wards, and two councilmen from the
7 third ward, one of the said two so elected from the third ward to
8 hold office for two years, and the other for one year; the terms
9 of office of said councilmen so elected from the third ward shall
10 be determined by lot at the first meeting of the council held after
11 such election in one thousand nine hundred and fifteen. Annual-
12 ly thereafter, on the fourth Thursday in May, there shall be
13 elected one councilman from each ward, to be voted for throughout
14 the town as hereinbefore provided. The mayor shall be elected
15 on the fourth Thursday in May, one thousand nine hundred and
16 sixteen, and every two years thereafter on such Thursday. The
17 mayor and members of the council elected in May, one thousand
18 nine hundred and fifteen, shall continue in office until their suc-
19 cessors are elected in May, one thousand nine hundred and six-
20 teen.

Certificates of Election.

Sec. 9. As soon as the result of such election for mayor
2 and councilmen is ascertained, the inspectors of election shall
3 sign a certificate containing complete returns of the polls taken
4 at their place of voting for all of said officers, and shall enclose
5 the certificate in an envelope, which shall be sealed up and en-
6 dorsed by each of such inspectors. The inspectors, or one of them,
7 shall, within three days after the day on which such election was
8 held, deliver said certificates to the mayor of said town. At the next
9 meeting of the council thereafter the mayor shall present such
10 certificates to the council, who shall examine the same and ascer-
11 tain the true result of such election in said town, and the person

12 respectively appearing to have received the highest number of
13 votes for the several offices shall be declared elected, and a cer-
14 tificate thereof signed by the mayor shall be granted to the per-
15 son so elected.

Who May Vote.

Sec. 10. Every person who shall have resided within the
2 boundaries of said town for one month, and within the ward in
3 which he offers to vote for five days next preceding the election
4 held therein, and who is a qualified voter under the laws and
5 constitution of this state, and no others, shall be entitled to
6 vote at any election held in said town.

Vacancies in Office.

Sec. 11. All vacancies occurring from any cause in any
2 elective office of the town shall be filled by appointment by the
3 council until the next election held in said town for councilmen;
4 but in case of a councilman, such appointment shall be made only
5 of a resident of the ward in which such vacancy has occurred, and
6 such appointees shall be otherwise qualified as is required by this
7 act.

Mode of Voting.

Sec. 12. At all elections the mode of voting shall be
2 that prescribed by the state constitution for the election of state
3 officers.

Tie Votes.

Sec. 13. Whenever two or more candidates for the same office
2 at any election shall receive an equal number of votes, the council
3 shall, in an equitable mode, determine which of the persons so
4 voted for shall be returned elected.

Contested Elections.

Sec. 14. All contested elections shall be heard and de-
2 cided by the council for the time being; but the council may or-
3 der a new election if satisfied the ends of justice will be better
4 attained thereby.

Quorum.

Sec. 15. A majority of the councilmen elected shall be
2 necessary for the transaction of any business.

Officers Appointed.

Sec. 16. There shall be one or more sergeants, a clerk,
2 a treasurer, an assessor and three commissioners of roads, streets
3 and alleys of said town, who shall be appointed by the council
4 thereof, and hold office during the pleasure of said council. The
5 duties of the clerk, treasurer and assessor may be discharged by
6 the same person, or otherwise, as the council may from time to
7 time determine; but no member of the council shall hold any of
8 said offices.

Oath of Mayor and Councilmen.

Sec. 17. The mayor and councilmen and all officers here-
2 in provided for, shall each, before entering upon the duties of his
3 office, and within ten days of the time of his election or appoint-
4 ment, take and subscribe an oath to faithfully and impartially
5 discharge the duties of his office, and the oath to support the
6 constitution of the United States, and the constitution of the state
7 of West Virginia. The mayor, having taken such oath or affirma-
8 tion, may administer the same to the councilmen and other officers.
9 Certificates of said oaths or affirmations shall be recorded in the
10 journal of said council, and whenever two-thirds of the members of
11 the council shall have qualified, they shall enter upon said
12 offices.

Failure to Qualify.

Sec. 18. If any one who shall have been elected mayor or
2 councilman shall not be eligible as herein prescribed, or shall
3 refuse or fail to take the oath or affirmation required under this
4 act, within the time prescribed, the council may declare his of-
5 fice vacant and fill the vacancy as provided in section eleven of this
6 act.

Presiding Officer.

Sec. 19. The council shall be presided over at its meet-
2 ings by the mayor, or in his absence, by the mayor *pro tem* who
3 shall be chosen annually by a majority of the council present at

4 the first meeting of said council, from the members of the council
5 after the election and qualification; and such mayor *pro tem* shall,
6 in the absence of the mayor, have all the powers and perform all the
7 duties of the mayor.

Journal of Council.

Sec. 20. The council shall cause to be kept, in a well-
2 bound book, an accurate record of all its proceedings, by-laws, acts
3 and orders, which shall be fully indexed, and open to the inspection
4 of citizens of the town. The proceedings of each meeting shall be
5 read and corrected at the succeeding meeting, and signed by the
6 person presiding for the time being. Upon the call of any
7 member the yeas and nays shall be called and recorded in the
8 journal. In all cases of a tie the person presiding at the time
9 shall have the casting vote.

Sec. 21. The council shall have power to open and grade
2 new streets and extend, widen, straighten, repair and grade old
3 streets and alleys; to curb and pave streets, sidewalks and gutters
4 for public use, and to alter, improve and light the same, and shall
5 have control of all the avenues for public use in said town; to have
6 the same kept in good order and free from obstructions on or over
7 them; to regulate and determine the width of all streets, sidewalks
8 and public alleys; to order and direct the curbing and paving of
9 all sidewalks and footways for public use in said town, to be done
10 and kept in good order by the owners or occupants of the adjacent
11 property; to control the construction and repair of all houses,
12 bridges and culverts; the opening and construction of all ditches,
13 drains and gutters; to widen, deepen, and clear the same of stag-
14 nant water and filth and to determine at whose expense the same
15 shall be done; to purchase, lay off and appropriate public grounds
16 and control the use of the same; to provide, contract for, and take
17 care of all public buildings proper to the town; to provide for the
18 regular building of houses or other structures; to cause the re-
19 moval of unsafe walls or buildings; to prevent injury or annoy-
20 ance to the public or individuals from anything dangerous, offen-
21 sive or unwholesome; to abate or cause to be abated anything which,
22 in the opinion of the majority of the whole council, shall be a
23 nuisance; to regulate the keeping of gunpowder and other com-
24 bustibles and explosives; to provide in or near the town places for
25 the burial of the dead, and regulate the interments in the town,

26 and provide ornamental trees; to provide for making division
27 fences, and for the draining of lots by proper drains and ditches;
28 to make regulations for guarding against danger or damages from
29 fire; to provide for the poor of the town; to organize one or more
30 fire companies, and provide the necessary apparatus, tools, imple-
31 ments, engines, or any of them, for their use; to provide a suffi-
32 cient revenue for said town, and appropriate the same to its ex-
33 penses; to issue bonds of the corporation and make sale thereof;
34 but no such bonds shall be sold by said corporation for less than
35 par, nor bearing a higher rate of interest than six per cent. per
36 annum; nor shall said corporation be indebted on account of such
37 issue at any period in a greater sum than ten thousand dollars
38 without the consent of a majority of the voters of the town ex-
39 pressed at an election held for that purpose; nor shall the whole
40 indebtedness of said town at any time ever exceed the sum of one
41 hundred thousand dollars; to provide for the annual assessment of
42 taxable persons and property in the town; to adopt rules for the
43 transaction of business and for the government and regulation
44 of its own body; to promote the general welfare of the town, and to
44-a protect the persons and the property of the citizens therein; to
45 appoint the officers authorized by section sixteen of this act, fix
46 their terms of service and compensation, require and take from
47 them bonds, with such sureties and in such penalties as the council
48 may determine, conditioned for the true and faithful discharge of
49 their duties, and remove them at pleasure; but all bonds taken by
50 the council shall be made payable to the town by its corporate
51 name; to provide for and regulate the weighing of hay, coal, wood
52 and other articles sold or for sale in said town, and to regulate the
53 transportation thereof through the streets; to establish and regu-
54 late markets, to prescribe the time for holding the same, and what
55 articles shall be sold only in said markets; to protect places of
56 divine worship; to lay off the town into four or more wards, pre-
57 scribing the boundaries of said wards; but should any change in
58 the boundaries of the wards be made, the new wards shall be equal
59 in population as nearly as possible; to appoint and publish the
60 places of holding town elections; to erect or authorize or prohibit
61 the erection of gas works in or near the town; to prevent injuries
62 to, and provide protection of the same; to provide for the purity of
63 the water and the healthfulness of the town; for all of which pur-
64 poses, except that of taxation, the council shall have jurisdiction
65 for one mile beyond the corporate limits of said town; to prescribe

66 and enforce ordinances for the purpose of protecting the health,
67 decency, morality and order of the town and its inhabitants, and to
68 punish violators of such ordinances, even if the offenses under and
69 against such ordinances shall also constitute offenses under the
70 laws of the state of West Virginia, or the common law, for which
71 purpose, also, the jurisdiction of said town shall extend for one
72 mile beyond the corporate limits thereof.

Power to Repair Sidewalks, Etc.

Sec. 22. If the owner or occupant of any sidewalk, foot-
2 way, gutter or pavement in said town, or of the real property next
3 adjacent thereto, shall fail or refuse to curb, pave, or keep the same
4 clean, in the manner and within the time required by the council,
5 it shall be the duty of the council to cause the same to be done at
6 the expense of the said town and to assess the amount of such ex-
7 pense upon such owner or occupant, and the same may be collected
8 by the town sergeant in the manner herein provided for the col-
9 lection of town taxes.

Powers of Council.

Sec. 23. To carry into effect these enumerated powers,
2 and all other powers conferred upon the said town, or its coun-
3 cil, expressly or by implication, by this or any future act of the
4 legislature of this state, the council shall have power to make, pass
5 and enforce all needful orders, by-laws, ordinances, resolutions,
6 rules and regulations, not contrary to the constitution and laws
7 of this state; and to prescribe and impose reasonable fines, penal-
8 ties and imprisonment in the county jail for a term not exceeding
9 thirty days, for violations thereof. Such fines, penalties and im-
10 prisonment shall be recovered and enforced under the judgment
11 of the mayor of said town, or the person lawfully exercising the
12 functions of mayor.

13 And the authorities of said town may, with the consent of the
14 county court of Jefferson county, entered of record, use the jail
15 of said county for any purposes for which the use of a jail may be
16 needed by them, under the acts of the council or of the state.

Sec. 24. The council shall cause to be made up an-
2 nually and entered upon its journal an accurate estimate of all
3 sums which are or may become lawfully chargeable on said
4 town, and which ought to be paid within one year, and it shall
5 order a town levy of so much, in its opinion, as may be neces-

6 sary to pay the same; *provided, however*, that the tax rate shall
7 not exceed thirty-five cents on the one hundred dollars, except
8 where it appears to the satisfaction of the council that a levy of
9 thirty-five cents on each one hundred dollars will not produce
10 sufficient revenue in any one year to pay current expenses, the
11 interest on the bonded indebtedness of the town, and provide
12 for a sinking fund sufficient to liquidate such bonded indebted-
13 ness within the time prescribed by law; and in such case, the
14 council may, by a vote of a majority of all the members elected
15 to the council, increase such tax rate to such a rate, not ex-
16 ceeding fifty cents on the one hundred dollars, as may be neces-
17 sary for the purpose aforesaid. All vacant property embraced
18 in the proposed boundaries of the said town, beyond the old
19 limits of the town, shall be subject only to such taxation for
20 the benefit of said town, as is levied upon other property for
21 county and district purposes, and until the said vacant property
22 shall be divided into lots for building purposes, and offered for
23 sale as such, and until the streets of the said town shall be opened
24 for the use and accommodation of the same.

Annual Levy.

Sec. 25. The levy so ordered shall be upon all male per-
2 sons resident of said town over the age of twenty-one years, dogs,
3 and all real and personal estate within the said town, subject to
4 state or county taxes; *provided*, that the tax so levied upon persons
5 do not exceed two dollars per head.

Licenses.

Sec. 26. Whenever anything for which a state license
2 is required is to be done within the said town, the council may
3 require a town license therefor, and may impose a tax thereon
4 for the use of the town. The council may require from the
5 persons so licensed a bond with sureties, payable to the town,
6 in such penalties and with such conditions as it may think
7 proper, and may revoke such license at any time, after due
8 notice and a hearing thereon, if the conditions of said bond
9 be broken.

Assessor.

Sec. 27 It shall be the duty of the assessor to make

2 an assessment of the persons, dogs and property within said
3 town subject to taxation, substantially in the manner and form
4 in which such assessments are made by the assessor of the
5 county, and to return the same to the council on or before
6 the first day of July in each year; and for this purpose he
7 shall have all the powers conferred by law upon the county
8 assessor. He shall receive a compensation for his services to
9 be fixed by the council, which shall not be increased or dimin-
10 ished during his continuance in office.

Sergeant.

Sec. 28. The sergeant shall have power to collect the
2 town taxes, fines and levies, and shall have power one month
3 after he receives the books of the assessor of said town, to dis-
4 train and sell therefor, in like manner as the sheriff may dis-
5 train and sell for state taxes, and shall in all other respects have
6 the same powers as a sheriff to enforce the payment and col-
7 lection thereof; and the said sergeant shall have power, within
8 the corporate limits, to exercise all the duties of a constable
9 as a conservator of the peace, and he shall be entitled to the same
10 compensation therefor. Upon the conviction of any person ar-
11 rested by him, for the violation of any of the ordinances of the
12 town, he shall be entitled to one dollar for such arrest, to be
13 taxed in the costs against the person so convicted, and he and
14 his sureties shall be liable to all fines, penalties and forfeitures
15 that a constable is legally liable to, for any failure or dereliction
16 in his said office, to be recovered in the same manner and before
17 the same courts that said fines, penalties and forfeitures are
18 now recoverable against constables.

Lien on Real Estate for Taxes.

Sec. 29. There shall be a lien upon real estate within
2 said corporation for the town taxes assessed thereon, from the
3 commencement of the year in which they are assessed, and for
4 all other assessments, fines and penalties assessed or imposed
5 upon the owners thereof by the authorities of the town, from the
6 the time the same are so assessed or imposed, which liens shall be
7 enforced by the council in the same manner as the lien for taxes for
8 county purposes is now enforced, or by suit in equity in the
9 circuit court of Jefferson county. The lien aforesaid shall have
10 priority over all other liens, except that for taxes due the state.

Prohibition of Shows.

Sec. 30. The council may prohibit any theatrical or
2 other performance, show or exhibition which it may deem in-
3 jurious to the morals or good order of the town.

Bonds of Sergeant and Treasurer.

Sec. 31. The council shall have power to require and
2 take from the sergeant and treasurer bonds, with sureties satis-
3 factory to the council, in such penalty as it may deem suf-
4 ficient, except that as to the sergeant it shall not be for a penalty
5 less than two thousand five hundred dollars; and said bond shall
6 be conditioned for the true and faithful performance of his
7 duties as sergeant, and for the collecting and accounting for and
8 payment of the taxes, fines and other moneys of the town which
9 shall come into his hands, or which it shall be his duty to col-
10 lect, at such times and to such persons as the council may order.
11 The treasurer's bond shall be conditioned for the true and faith-
12 ful performance of his duties as treasurer, and that he will faith-
13 fully pay over and account for all moneys that shall come into
14 his hands as treasurer, when and as he shall be thereto required
15 by the council.

Mayor; Powers, Duties, Etc.

Sec. 32. The mayor shall be the chief executive officer of
2 the town, and shall take care that all by-laws, ordinances and
3 orders of the council are faithfully executed. He shall be *ex-officio*
4 a conservator and justice of the peace within said town, and
5 shall, within the same, exercise all the powers and duties vested
6 in justices, except that he shall have no jurisdiction as such in
7 civil cases. He shall have control of the police of the town, and
8 may appoint special police officers whenever he deems it neces-
9 sary; and it shall be his duty especially to see that the peace and
10 good order of said town are preserved, and that the persons and
11 property therein are protected; and to this end he may cause the
12 arrest and detention of all riotous and disorderly persons in said
13 town before issuing his warrant therefor. He shall have power to
14 issue executions for all fines, penalties and costs imposed by him,
15 or he may require the immediate payment thereof, and in default of
16 such payment he may commit the party in default to the jail of
17 Jefferson county until the fine or penalty and costs shall be paid, to

18 be employed during the term of his imprisonment as hereinafter
19 provided; but the term of imprisonment in such case shall not
20 exceed thirty days. He shall, from time to time, recommend to
21 the council such measures as he may deem needful to the welfare
22 of the town. He may receive a compensation for his services, to
23 be fixed by the council, which shall not be increased nor dimin-
24 ished during the term for which he was elected.

Clerk; His Duties and Compensation.

Sec. 33. It shall be the duty of the clerk to keep the jour-
2 nal of the proceedings of the council, and to have charge of and
3 preserve the records, papers, documents, contracts, etc., of the
3-a town. He shall attend the mayor in all his examinations, issue
4 his orders, swear witnesses, and perform all the duties of a clerk in
5 the council and mayor's court. He shall receive such compensa-
6 tion for his services as may be fixed by the council, which shall not
7 be increased nor diminished during his term of office.

Sergeant; His Duties, Liabilities and Compensation.

Sec. 34. It shall be the duty of the town sergeant to col-
2 lect the taxes, fines and other income and revenue of the town, as
3 specified in his bond, and to account for and pay the same to the
4 treasurer at such times as the council may order. And it shall
5 be his duty, at least once in every three months, and oftener if re-
6 quired by the council, to render an account of the taxes, fines and
7 other claims in his hands for collection, and return a list of such
8 as he shall have been unable to collect by reason of insolvency, to
9 which list he shall make an oath that he has used due diligence to
10 collect the same, but has been unable to do so. The council shall, if
11 it be satisfied that he could not have collected the same by the
12 use of due diligence, allow them. But if the council shall be of
13 opinion that by the use of due diligence on the part of said ser-
14 geant he could have collected the same, or any part thereof, then
15 he shall be charged with such as he might have collected. The
16 said sergeant shall do and perform all other acts pertaining to the
17 office of sergeant of a corporation, and of a police officer within said
18 town, and as such shall have the same powers, duties, fees, and
19 liabilities are are by law prescribed for a constable when acting as
20 such. He shall for his services receive such compensation as shall
21 be fixed by the council.

Treasurer.

Sec. 35. All moneys belonging to said town shall be paid
2 over to the treasurer, none of which shall be paid out by him ex-
3 cept as the same have been apportioned and ordered to be paid
4 by the council; and the said treasurer shall pay the same upon
5 the certificate of the mayor.

Motion Against Treasurer.

Sec. 36. If the treasurer shall fail to account for and pay
2 over all or any moneys that shall come into his hands, when thereto
3 required by the council, it shall be lawful for the council, in the
4 corporate name of the town, by motion before the circuit court of
5 Jefferson county, or any court having jurisdiction, after ten
6 days previous notice, to recover from the treasurer and his sure-
7 ties, or their personal representatives, any sum that may be due
8 from said treasurer to said town.

Motion Against Sergeant.

Sec. 37. If the sergeant shall fail to collect, account for
2 and pay over all the taxes, fines and other revenue of the town in
3 his hands for collection, according to the conditions of his bond,
4 it shall be lawful for the council to recover the same by motion, in
5 the corporate name of the town, in the same manner and before
6 the same courts as provided against the treasurer in section thir-
7 ty-six of this act.

Commissioner of Streets.

Sec. 38. It shall be the duty of the commissioner of
2 streets to superintend the opening, construction and repair of the
3 roads, streets and alleys, sidewalks, cross-walks, footways, drains,
4 and gutters within the said town, and to put and keep the same
5 in good repair, and to carry into execution all the resolutions, or-
6 ders and ordinances of the council in relation thereto.

Exemption from Road and Poor Tax.

Sec. 39. The said town, and the taxable persons and prop-
2 erty therein, shall be exempt and free from the payment of any
3 poor taxes or ordinary road tax, and from contributing to any
4 county expenses for the poor and the ordinary roads and bridges

5 of said county, outside of the corporate limits of the said town, for
6 any year in which said town shall, at its own expense, provide for
7 its own poor and keep its streets and bridges in order.

Hitching Yard.

Sec. 40. The municipal authorities of the town shall have
2 power to provide, maintain and operate a hitching yard for the
3 use of the public, and to this end may acquire by purchase, con-
4 demnation or otherwise, a sufficient amount of real estate, either
5 within or without the corporate limits. It is authorized to make
6 reasonable rules and regulations for the use of the same, includ-
7 ing the right to make reasonable charges against persons using
8 and occupying it; to erect suitable buildings and sheds thereon; to
9 keep the same clean; to provide a watchman or caretaker, and to
10 prescribe his powers, duties and compensation, taking from him
11 such bond as may be thought proper. The county court of Jeffer-
12 son county is hereby authorized to appropriate such sums annu-
13 ally as it may think proper for the purpose of maintaining in
14 connection with the authorities of the town of Charles Town such
16 hitching yard. Should said county court make such appropria-
17 tion, rules and regulations respecting the use thereof shall be pre-
18 scribed by a joint committee of the county court of Jefferson coun-
19 ty and the council of the corporation of Charles Town. The
20 amount of the appropriation by the county court in each year shall
21 not be less than one hundred nor more than five hundred dollars.

Former Toll Roads Within the Corporate Limits.

Sec. 41. Nothing contained in this act shall be deemed to
2 place upon the corporation of Charles Town the duty of main-
3 taining and keeping in good order and repair and covered with
4 gravel such streets and roads within the corporate limits as were
5 formerly toll roads or turnpikes, the duty to maintain which and
6 keep in good order and repair and covered with gravel, is placed
7 upon the county court by the acts of the legislature of one thou-
8 sand nine hundred and three, one thousand nine hundred and seven,
9 and one thousand nine hundred and nine. The county court of
10 Jefferson county may, however, upon the request of the council of
11 the corporation of Charles Town surrender its jurisdiction and
12 control of any or all of such roads or streets within the corporate
13 limits to the corporation of Charles Town; and in such case, the
14 duty of maintaining such streets, and keeping them in good order

15 and repair and covered with gravel, shall be placed upon the cor-
16 poration of Charles Town; and, in such case, the county court of
17 Jefferson county shall pay to the corporation of Charles Town an-
18 nually such amounts as may be expended by it in maintenance of
19 such roads and streets; or, the said county court of Jefferson coun-
20 ty may, at its option, pay to the corporation of Charles Town such
21 lump sum as may be agreed upon between them, in consideration of
22 the corporation of Charles Town assuming jurisdiction of such
23 roads and streets, and becoming liable for their upkeep, mainte-
24 nance and repair, as aforesaid.

Other Provisions of Law Applicable.

Sec. 42. The corporation of Charles Town, except as is
2 herein otherwise provided, shall have all the powers, rights and
3 privileges, and be entitled to all the benefits now conferred on mu-
4 nicipal corporations by chapters forty-seven, forty-seven-a and for-
5 ty-eight of the code of West Virginia of one thousand, nine hun-
6 dred and thirteen, or which may hereafter be granted to municipal
7 corporations by general law.

Rights Reserved.

Sec. 43. All rights, privileges and properties of the said
2 town, heretofore acquired and possessed, owned and enjoyed by said
3 town under any act now in force, shall continue undiminished and
4 remain vested in said town under this act; and all laws, ordi-
5 nances and resolutions of the council now in force and not incon-
6 sistent with this act shall be and continue in full force and effect
7 until regularly repealed by a council elected as provided under
8 this act.

Duties of the Council.

Sec. 44. The council shall adopt all needful and just ward
2 regulations, whether general or special, for the good of the citi-
3 zens thereof. It shall authorize street expenditures in the several
4 wards, as equity and justice shall demand; and may authorize the
5 collection of a special tax in any ward of the town, for a specified
6 purpose within such ward, when requested to do so by a majority
7 of the voters thereof. Whenever in the opinion of the council it
8 becomes necessary to lay off said town into more than four wards,
9 the said council shall lay it off.

Prisoners; How Employed.

Sec. 45. The council shall provide for the employment
2 and safe keeping of persons who may be committed for default
3 in payment of fines, penalties, or costs under this act, and who
4 are otherwise unable to discharge the same, by putting them to
5 work for the benefit of the town; shall keep on hand an ample sup-
6 ply of necessary material for the same, and shall provide all neces-
7 sary tools, implements, fixtures and facilities for the immediate
8 employment of any and all of such persons; shall fix a reason-
9 able rate per diem as wages to be allowed every person, until such
10 fine and costs against him are discharged; and the clerk shall keep
11 an account of all fines and penalties so collected and expended.

Opening Streets.

Sec. 46. The council of said corporation shall be entitled
2 to all the benefits of chapter forty-two of the code of West Vir-
3 ginia, for the condemnation of land for streets, alleys and public
4 buildings in said corporation, and the commissioners appointed
5 under said chapter shall in cases of opening of streets or alleys
6 or in widening the same, not only assess what is a just compensa-
7 tion as provided in said chapter, but they shall also assess the
8 damages and benefits to all lot owners or property holders having
9 lots or land adjacent to and abutting on said street or alley, whose
10 lot or land may be benefited or injured by the opening of such
11 street or alley or by the widening of any such street or alley, and
12 shall make report as provided in said chapter, but lot owners and
13 property holders shall be named in the application and served with
14 notice as required by said chapter, and the duties of such commis-
15 sioners and their oaths shall cover the duties herein imposed. All
16 assessments for benefits under this act shall be a lien on the
17 property against which the same are assessed, and may be enforced
18 in a court of equity. But either party to such assessment of dam-
19 ages or benefits shall have the right to call for a jury as provided
20 in said chapter.

Senate Bill No. 257

AN ACT to amend and re-enact chapter one hundred and four of the acts of one thousand eight hundred and ninety-seven, incorporating the city of Hinton, as amended by chapter one hundred and twenty-one of acts of one thousand nine hundred and one of the legislature of West Virginia; and to change the form of government, and to repeal all acts and parts of acts inconsistent with the provisions of this act.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and four of the acts of one thousand eight hundred and ninety-seven, as amended by chapter one hundred and twenty-one of the acts of one thousand nine hundred and one, of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

ARTICLE I.

The City of Hinton.

Section 1. That part of the county of Summers included in 2 the limits hereafter mentioned in section two is hereby made a 3 city corporate and body politic by the name of "The City of Hinton", and as such shall have perpetual succession and a common 5 seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease, sell and hold land and personal property necessary to the purposes of said corporation.

Corporate Limits.

Sec. 2. The corporation territorial limits of the city of 2 Hinton shall be as follows, to-wit:

3 Beginning at a stone corner of the Chesapeake and Ohio
4 Railway Company's land, and corner to the former town of Upper
5 Hinton, thence north thirty-four degrees, east two hundred and
6 eighty poles to a beech on Grimmett's branch; thence north forty-
7 three degrees, west ninety-eight poles to the mouth of Grimmett's
8 branch; thence south forty-two degrees, west sixty-six poles, south
8-a fifty-four degrees, west seventy-six poles, south eighty-five
9 degrees, west one hundred and twelve poles, south forty-five
10 degrees, west one hundred and twelve poles, south five degrees,
11 east fifty-two poles to a station, corner to corporate limits of said

12 Upper Hinton; thence south eighty-one degrees, east to the place
13 of beginning.

Sec. 3. The territory of said city shall consist of four wards,
2 as now constituted which shall be designated and known respect-
3 ively as first, second, third and fourth wards.

4 It is provided, however, that the board of affairs, hereinafter
5 provided for, after the expiration of two years from the time this
6 act takes effect, may by ordinance fix the boundaries and increase
7 or decrease the number of wards.

ARTICLE II.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Hinton
2 shall be four commissioners who shall constitute a board of af-
3 fairs, (and common council hereinafter provided for in article
4 three) and shall be known as the "Board of Affairs of the City
5 of Hinton".

Corporate Powers.

Sec. 5. All the corporate powers of said city shall be vested
2 in and exercised by the board of affairs, or under its authority,
3 except as otherwise provided in this act.

Powers of Board of Affairs.

Sec. 6. The board of affairs of said city shall have and are
2 hereby granted power to have said city surveyed; to open, vacate,
3 broaden, change grade of, and pave streets, side walks and gut-
4 ters for public use, and to alter, improve, embellish and ornament
5 and light the same, and to construct and maintain public sewers
6 and laterals, and shall in all cases have power and authority to
7 assess upon and collect from the property benefited thereby such
8 part of the expense thereof as shall be fixed by ordinance except
9 as hereinafter provided; to have control of all streets, avenues,
10 roads, alleys and grounds for public use in said city, and to regulate
11 the use thereof and driving thereon, and to have the same kept in
12 good order and free from obstruction, pollution or litter on or over
13 them; to change name of any street, avenue or road within said
14 city, and to cause the re-numbering of houses on any street, avenue
15 or road therein; to regulate and determine the width of streets,
16 sidewalks, roads and alleys; to order and direct the curbing and

17 paving of sidewalks and footways for public use in said city to be
18 done and kept clean and in good order by the owners of adjacent
19 property; to prohibit and punish the abuse of animals; to restrain
20 and punish vagrants, mendicants, beggars, tramps, prostitutes,
21 drunken or disorderly persons within the city, and to provide for
22 their arrest and manner of punishment; to prohibit and punish by
23 fine the bringing into the city by railroads or other carriers,
24 of paupers or persons afflicted with contagious diseases; to
25 control and suppress disorderly houses, houses of prostitution, of ill-
26 fame, houses of assignation, and gaming houses or any part thereof,
27 and to punish gaming; to prohibit within said city or within one
28 mile thereof slaughter houses, soap or glue factories and houses
29 of like kind; to control the construction and repair of all houses,
30 basements, walls, culverts and sewers, and to prescribe and enforce
31 all reasonable regulations affecting the construction of the same,
32 and to require permits to be obtained for such buildings and
33 structures, and plans and specifications thereof to be first sub-
34 mitted to a city architect or building inspector; to control the
35 opening and construction of ditches, drains, sewers, cesspools and
36 gutters, and to deepen, widen and clear the same of stagnant water
37 or filth, and to prevent obstruction therein, and to determine at
38 whose expense the same shall be done; and to build and maintain
39 fire station houses, police stations and police courts, and to
40 regulate the management thereof; to acquire, lay off, appropriate
41 and control public grounds, squares and parks, either within or
42 without the city limits as hereinafter defined, and when the
43 board of affairs determine that any real estate is necessary to be
44 acquired by said city for any such purpose, or for any public
45 purposes, the power of eminent domain is hereby conferred upon
46 said city, and it shall have the right to institute condemnation
47 proceedings against the owner thereof in the same manner, to
48 the same extent and upon the same conditions as such power is
49 conferred upon public corporations by chapter forty-two of the
50 code of West Virginia of the edition of one thousand nine hun-
51 dred and six, and as now amended; to purchase, sell, lease or
52 contract for and take care of all public buildings and structures
53 and real estate including libraries and hospitals, deemed proper
54 for use of such city; and, for the protection of the public, to
55 cause the removal of unsafe walls or buildings, and the filling
56 of excavations; to prevent injury or annoyance to the business of
57 individuals from anything dangerous, offensive or unwholesome;

58 to abate or cause to be abated all nuisances and to that end and
59 thereabout to summon witnesses and hear testimony; to regulate
60 the keeping of gunpowder, gasoline, dynamite and other com-
61 bustible or dangerous articles; to regulate, restrain or prohibit
62 the use of firecrackers or other explosives or fireworks and all
63 noises or performances which may be dangerous, annoying to
64 persons or tend to frighten horses or other animals; to provide
65 and maintain proper places for the burial of the dead and to
66 regulate interments therein upon such terms and conditions as
67 to price and otherwise as may be determined; to provide for
68 shade and ornamental trees and the protection of the same; to
69 provide for the making of division fences; to make proper regula-
70 tion for guarding against danger or damage from fires; to pro-
71 vide for the poor of the city, and to that end may contract with
72 the proper authorities of Summers county to keep and maintain
73 the poor, or any number thereof, upon terms to be agreed upon;
74 to make suitable and proper regulations in regard to the use of
75 the streets and alleys for street cars, railroad engines and cars,
76 and to regulate the running and operation of the same so as to
77 prevent injury, inconvenience or annoyance to the public; to
78 prohibit prize fighting, cock and dog fighting; to license, tax,
79 regulate or prohibit theatres, circuses, the exhibition of showmen
80 and shows of any kind and the exhibition of natural or artificial
81 curiosities, caravans, menageries and musical exhibitions and
82 performances, and other things or business on which the state
83 does or may exact a license tax; to organize and maintain fire
84 companies and to provide necessary apparatus, engines and im-
85 plements for the same; to regulate and control the kind and
86 manner of plumbing and electric wiring for the protection of
87 the health and safety of said city; to levy taxes on persons,
88 property and licenses; to license and tax dogs and other animals,
89 and regulate, restrain and prohibit them and all other animals
90 and fowls running at large; to provide revenue for the city and
91 appropriate the same to its expenses; to adopt rules for the
92 transaction of business and for its own regulation and govern-
93 ment; to promote the general welfare of the city and to protect
94 the persons and property of citizens therein; to regulate and
95 provide for the weighing of produce and other articles sold in
96 said city and to regulate the transportation thereof, and other
97 things through the streets; to have the sole and exclusive right
98 to grant, refuse or revoke any and all licenses for the carrying

99 on of any business within said city on which the state exacts a
100 license tax; to establish and regulate markets and to prescribe
101 the time for holding the same, and what shall be sold in such
102 markets, and to acquire and hold property for market purposes;
103 to regulate the placing of signs, billboards, posters and adver-
104 tisements in, on or over the streets, alleys, sidewalks and public
105 grounds of said city; to preserve and protect the peace, order,
106 safety and health of the city and its inhabitants, including
107 the right to regulate the sale and use of cocaine, morphine,
108 opium and poisonous drugs; to appoint and fix the places of
109 holding city elections; to erect, own, lease, authorize or prohibit
110 the erection of gas works, telephone plants, electric light works
111 or water works or ice plants, in or near the city, and to operate
112 the same and sell the products or service thereof, and to do
113 any and all things necessary and incidental to the conduct of
114 such business, including the right in any franchise hereafter
115 granted; to fix and change the charges and prices for which the
116 service or article of the person or company operating any such
117 plants or works, or any other public utilities or public service
118 corporation under such future franchise may be had by their
119 patrons or consumers; to provide for the purity of water, milk,
120 meats and provisions offered for sale in said city, and to that
121 end provide for a system of inspecting the same and making and
122 enforcing rules for the regulation of their sale, and to pro-
123 hibit the sale of any unwholesome or tainted milk, meats, fish,
124 fruit, vegetables, or the sale of milk containing water or other
125 things not constituting a part of pure milk; to provide for in-
126 specting dairies and slaughter houses whether in or outside of
127 the city, where the milk and meat therefrom are offered for
128 sale within said city; to prescribe and enforce ordinances and
129 rules for the purpose of protecting the health, property, lives,
130 decency, morality and good order of the city and its inhabitants,
131 and to protect places of divine worship in and about the premises
132 where held, and to punish violations of such ordinances even
133 if the offense under and against the same shall constitute offenses
134 under the law of the state of West Virginia or the common law;
135 to provide for the employment and safe keeping of persons who
136 may be committed in default of the payment of fines, penalties
137 or costs under this act, who are otherwise unable or fail to
138 discharge the same, by putting them to work for the benefit of
139 the city upon the streets or other places provided by said city,

140 and to use such means to prevent their escape while at work as
141 to the board of affairs may deem expedient; and the board of
142 affairs may fix a reasonable rate per day as wages to be allowed
143 such persons until the fine and costs against them are thereby
144 discharged; to compel the attendance at public meetings of the
145 members of the board of affairs; to have and exercise such addi-
146 tional rights, privileges and powers as are granted to munici-
147 palities by chapter forty-seven of the code of West Virginia of
148 the edition of one thousand nine hundred and six. For all
149 such purposes, except that of taxation, the board of affairs shall
150 have jurisdiction, when necessary, for one mile beyond the cor-
151 porate limits of said city, in all directions excepting any other
152 municipal corporation or part thereof within said one mile
153 limit. Said city of Hinton as constituted by this act, shall re-
154 tain, keep and succeed to all rights, privileges, property, in-
155 terests, claims and demands heretofore acquired by, vested in
156 or transferred to said city of Hinton, as heretofore constituted.

157 And the board of affairs shall have the right to enter into
158 an article of agreement with the county court of Summers
159 county for joint action on behalf of the city of Hinton or any
160 portion thereof with the magisterial district or districts adjacent
161 to said city of Hinton, for the permanent improvement of
162 streets and roads within said city or magisterial districts.
163 Said article of agreement may provide for the selling of bonds
164 of said magisterial district or districts including the city of
165 Hinton or any portion thereof upon an affirmative vote of three-
166 fifths of all the votes cast at a special election called for this
167 purpose by the authority of said county court.

ARTICLE III.

Common Council.

Sec 7. The city of Hinton shall have an additional board
2 to that provided in article two, section four of this act, to be
3 known and styled the "Common Council of the City of Hinton,"
4 and which shall be comprised of two persons from each ward of
5 the city, and who shall be voted for and elected by the voters of
6 each ward respectively, and in the manner hereinafter prescribed.

Sec. 8. The common council shall, at its first meeting after
2 a majority of the newly elected members thereof shall have
3 qualified, elect one of its members president of the body, whose

4 term of office shall run with the term of the members of the
5 body electing him.

Sec. 9. The comissioner charged with the duties of the city
2 clerk shall be *ex-officio* clerk of the common council, and shall
3 perform such duties pertaining thereto as the council may require
4 of him.

Sec. 10. Whenever a majority of the newly elected members
2 of the common council shall have qualified, they shall enter upon
3 the duties of their offices, as a body, and supersede all the
4 former members of said council.

Sec. 11. If any person elected to the common council fail
2 to qualify as herein provided within ten days after his said
3 election, or shall, after having qualified, resign from the council,
4 or move from the ward in which he was elected, his office shall be
5 vacated, and the common council shall, by a majority vote of the
6 members voting thereon, fill such vacancy for the unexpired term
7 with some person from the same ward and of the same political
8 party as the person whose vacancy of office is being filled.

Sec. 12. The common council shall, likewise by a majority
2 vote of the members voting thereon, fill any vacancy in the office
3 of president of its body by electing another member of the coun-
4 cil to the office of president for the unexpired term.

Sec. 13. The right to veto on any franchise or ordinance
2 passed by the board of affairs is hereby conferred upon the com-
3 mon council, in the manner prescribed in article twelve of this
4 act. Such veto shall be by a majority vote of all the members
5 elected to said council, (except as prescribed in section seventy-
6 six of this act), and the vote thereon shall be taken by roll call of
7 the members and entered of record in the minutes of the meeting.

Sec. 14. The common council shall have the right to hear,
2 consider and act on charges against any member of the board of
3 affairs, and after having heard proof of such charges, may remove
4 such commissioner and declare his office vacant by two-thirds of
5 all the members elected on said board, and the vote thereon shall
6 be by roll call of the members and entered of record in the
7 minutes of the meeting. But before such commissioner shall
8 be put to trial on said charges, he shall have at least ten days'
" written notice of the nature of said charges, and the time and
10 place of a hearing thereon before said common council. If the
11 common council, after hearing of said charges, shall remove said
12 commissioner from office, thereby declaring a vacancy in his said

13 office of commissioner, it shall through its president or otherwise,
14 cause its action thereabout to be at once certified to the board of
15 affairs.

Sec. 15. No commissioner shall be removed from his office
2 except for one of the causes mentioned in section six of article
3 four of the constitution of West Virginia.

Sec. 16. The common council shall make proper rules for
2 its government not contrary or inconsistent with any of the pro-
3 visions of this act or the authority vested in the board of affairs;
4 and it shall cause a record of its meetings and proceedings to
5 be kept and recorded by its clerk in a well bound book, which
6 shall remain in the custody and at the office of the commissioner
7 charged with the duties of city clerk, open to the public inspec-
8 tion. The minutes of the meeting and proceedings of said coun-
9 cil, after recordation and when signed by its president, shall be
10 admitted as evidence in any court of record in this state.

ARTICLE IV.

Departments of City Government.

Sec. 17. In order to better dispatch the business of the city,
2 and assign more in detail the duties of the members of the board
3 of affairs, the government of said city is hereby divided into
4 four departments, to-wit:

- 5 Department of fire, police, health and charity;
- 6 Department of finance, taxation and streets;
- 7 Department of records, public buildings and grounds;
- 8 Department of law.

Sec. 18. The mayor shall be the commissioner as herein-
2 after provided in section twenty of article five, and shall be
3 charged with the department of fire, police, health and charity;
4 the commissioner receiving the highest number of votes of the
5 opposite political party to that of the mayor shall be the com-
6 missioner in charge of the department of finance, taxation and
7 streets; the commissioner receiving the next highest number of
8 votes to that of the mayor and of the same political party as the
9 mayor shall be the commissioner in charge of the department
10 of records, public buildings and grounds; and the fourth and
11 remaining commissioner and of the opposite political party to
12 that of the mayor shall be the commissioner in charge of the
13 department of law, and the commissioners thus assigned shall
14 be styled the commissioner of his department and he shall have

15 the immediate care and supervision of his department but subject
16 always to the control of the board of affairs. The business and
17 the labors incident thereto of each of the departments shall be that
18 which properly falls within the scope of the particular depart-
19 ment. The head of each department shall see to the performance
20 of all the business coming within his department or which may
21 be referred thereto or to any officer thereunder, from time to
22 time.

Sec. 19. The commissioner of each department shall keep
2 a public office in the city at which he may be found or com-
3 municated with during stated hours to be fixed by him for the
4 convenience of the public, unless his official duties call him else-
5 where.

ARTICLE V.

Commissioners' Duties and Powers.

Sec. 20. The commissioner receiving the greatest number
2 of votes at the general election for members of the board of
3 affairs shall, by reason thereof, be the mayor of the city.

Sec. 21. If two or more commissioners shall receive an
2 equal number of votes at such election they shall decide by cast-
3 ing lots which of them shall be mayor, and until such decision
4 shall have been made the city attorney shall be the acting mayor
5 of the city with the powers and duties and salary of mayor while
6 he so acts, except he shall not vote on any question arising or
7 coming before the board of affairs.

Sec. 22. A vacancy in the office of mayor shall be filled for
2 the unexpired term by the board of affairs by the election thereto
3 of some member of their board; *provided*, that if such appoint-
4 ment be made at a time when there is also a vacancy on the
5 board of affairs, said appointment shall hold only until the
6 vacancy on the board of affairs shall have been filled, when the
7 full membership of the board of affairs shall appoint some mem-
8 ber of its board to the office of mayor for the unexpired term.

Sec. 23. The mayor shall have and exercise all rights,
2 powers and duties of mayor conferred by the constitution and
3 laws of this state, and all those conferred by the terms of this act,
4 and no other. He shall be the presiding officer of the board of
5 affairs, and he, in the capacity of commissioner, shall have the
6 right to vote on any question arising before the board, but he,

7 in the capacity of presiding officer of the board, shall not have
8 any vote by which to decide a question on which there is a tie
9 vote. He shall be the executive officer of the city, and shall see,
10 except as herein otherwise provided, that the laws and ordinances
11 of the city and resolutions and orders of the board of affairs are
12 enforced, and that the peace and good order of the city are pre-
13 served, and that the persons and property therein are protected.
14 He shall perform such other duties, if they be not inconsistent
15 with the duties of the office of mayor or commissioner, as the
16 board of affairs may from time to time prescribe.

Sec. 24. The commissioner charged with the department
2 of finance, taxation and streets, shall have and exercise all the
3 rights, powers and duties that have heretofore been assigned to
4 the sergeant, the assessor and street commissioners, by the old
5 charter and amendments thereto of the city of Hinton, and in
6 addition he shall perform such other duties as shall properly
7 come in his department either by this charter or the laws of the
8 state.

Sec. 25. The commissioner charged with the department of
2 records, public buildings and grounds, shall have and exercise
3 all the rights, powers and duties now conferred and required by
4 the present charter of the city of Hinton of the recorder, and
5 shall perform such duties as herein required of the city clerk,
6 and such other duties as shall be necessary for the proper dis-
7 charge of his department as herein provided or by the statute
8 laws of the state, or as the board of affairs may from time to time
9 prescribe.

Sec. 26. The commissioner charged with the department of
2 law shall have and exercise all the rights, powers and duties of
3 the police judge as herein provided and as may be conferred by
4 the constitution and laws of this state, and by the terms of this
5 act.

ARTICLE VI.

Additional Officers.

Sec. 27. In addition to the municipal authorities mentioned
2 in section four of this act, said city shall have a city attorney,
3 chief of police, chief of fire department, health officer, and such
4 other officers and agents as the board of affairs may from time to
5 time create or employ. The election of all appointive officers

6 named or provided for in this section shall be vested in the
7 board of affairs, subject to the approval of common council.

ARTICLE VII.

Qualification of Voters.

Sec. 28. Every person qualified by law to vote for members
2 of the legislature of the state, and who shall have been a resident
3 of said city for sixty days preceding the day of election, and a
4 *bona fide* resident of the election precinct in which he offers to
5 vote, shall be entitled to vote at all elections held, in said city
6 by or under the corporate authorities thereof.

Registration of Voters.

Sec. 29. The board of affairs shall by ordinance provide for
2 such regulations for registration of voters as may be necessary
3 to comply with state laws.

ARTICLE VIII.

Nomination of Candidates.

Sec. 30. Candidates to be voted for at any municipal elec-
2 tion for members of the board of affairs and members of the
3 common council may be nominated by convention, primary or
4 petition in the manner and under the provisions now or here-
5 after prescribed by state laws relating thereto. *Provided, how-*
6 *ever,* that no political party shall nominate more than three
7 persons for the office of members of the board of affairs, no two
8 of whom shall be from the same ward, and no more than two
9 persons in each ward of the city for the office of members of the
10 common council. If any certificate of nomination, or any petition
11 for nomination, of candidates for either the board of affairs or
12 the common council shall contain more names than prescribed
13 in this section for such office, then the ballot commissioners
14 shall take the first three names for the board of affairs and the
15 first two names for common council as the nominees of such
16 party for said respective offices. And, *provided, further,* that
17 there shall not be printed on any ticket on any ballot to be
18 voted at any municipal election for the election of officers of
19 the city more than three names for the office of members of
20 the board of affairs nor more than two names for the office of
21 members of the common council.

Sec. 31. In case of nomination of candidates to be voted
2 for to fill vacancies on the board of affairs, no political party
3 shall nominate more than double the number to be elected and
4 such nominations shall be certified, and the names of the nominees
5 printed on the ballot, in the manner prescribed in section thirty,
6 herein.

Sec. 32. Every person so nominated for the office of com-
2 missioner, shall, within five days after his nomination has been
3 certified by the political party making the nomination or a
4 petition therefor shall have been filed, make, under oath, and
5 file with the city clerk, a statement of the political party to
6 which he claims allegiance, and, if nominated by two or more
7 parties, he shall state to which of them he belongs. If such
8 person fail to make the oath, and file the same, as herein pre-
9 scribed, the ballot commissioner shall not place his name on the
10 ballot to be voted at the approaching election.

ARTICLE IX.

Election of Officers.

Sec. 33. On the second Tuesday of December one thousand
2 nine hundred and sixteen, and on the same day in every second
3 year thereafter, there shall be elected by the qualified voters
4 of the whole city four commissioners, who shall hold their offices
5 from the time of their qualification on and from the first day of
6 the next succeeding month for the term of two years, and until
7 their successors are elected and a majority thereof shall have
8 qualified.

Sec. 34. At the same election at which commissioners shall
2 be elected, there shall also be elected by the qualified voters of
3 each ward of the city two members of the common council who
4 shall at the time be residents of the ward from which they are
5 elected, and who shall hold their offices from the time of their
6 qualification on and from the first day of the next succeeding
7 month for the term of two years, and until their successors are
8 elected and a majority thereof shall have qualified.

Sec. 35. No person shall be eligible to the office of com-
2 missioner or member of the common council except he be a citizen
3 entitled to vote at the election at which commissioners are
4 elected, and be a freeholder owning real estate within the city;
5 *provided*, no person shall be eligible to the said office of com-

6 missioner who is a stockholder, employe, or in any way finan-
7 cially interested in any public service corporation which may be
8 operating or doing business under and by authority of any fran-
9 chise granted by the city of Hinton.

Sec. 36. Not more than two persons whose names appear
2 on any ticket of the ballot being voted at an election for members
3 of the board of affairs shall be elected to said office. The four
4 candidates receiving the greatest number of votes shall be de-
5 clared elected; *provided*, that not more than two of the four
6 candidates receiving the greatest number of votes shall be of
7 the same political party, and if more than two candidates of the
8 same political party receive the greatest number of votes then
9 the two of such party receiving the greatest number of votes
10 shall be declared elected, and the votes for the other candidates
11 of said party for said office shall be disregarded and the two
12 candidates of other political parties voted for at said election
13 who receive the next greatest vote shall be declared elected.

Sec. 37. If two or more candidates receive an equal number
2 of votes for commissioner or member of the common council,
3 the canvassing board, before whom said election returns shall
4 have been canvassed, shall decide between them according to the
5 provisions and intent of this act as to eligibility of candidates
6 and political parties and tickets to which they belong.

Sec. 38. Not more than one person whose name appears on
2 the ticket of any party being voted at an election for members
3 of the common council shall be elected to said office. The two
4 candidates receiving the greatest number of votes shall be de-
5 clared elected; *provided*, that not more than one of the two
6 candidates receiving the greatest number of votes shall be of
7 the same political party.

Sec. 39. All elections of whatsoever kind, held under this
2 act shall be conducted, returned and the result thereof ascer-
3 tained and declared in the manner prescribed by the laws of the
4 state relating to elections in so far as they are not in conflict
5 or inconsistent with the provisions of this act.

Contested Elections.

Sec. 40. All contested elections shall be heard and decided
2 by the board of affairs for the time being, and the contest shall
3 be made and conducted in the same manner as provided for
4 in such contest for county and district offices; and the board

5 of affairs shall conduct its proceedings in such cases as nearly as
6 practicable in conformity with the proceedings of the county court
7 in such cases.

Oaths of Officers.

Sec. 41. All officers, elective and appointive, shall take oath,
2 before some one authorized to administer oaths, that they will
3 support the constitution of this state, and will faithfully and
4 impartially discharge the duties of their respective offices, to
5 the best of their skill and judgment; and that they will not
6 administer their respective offices with the aim to benefit any
7 political party; and, in the case of commissioners, they shall
8 add in their oath that they will not during their term of office
9 become pecuniarily interested directly or indirectly, in any con-
10 tract with the city, or the purchase of any supplies therefor.
11 When the officer shall have made such oath in writing and filed
12 the same with the city clerk, and shall have given the bond
13 required of and accepted from him, he shall be considered as
14 having qualified for the office to which he was elected or ap-
15 pointed; *provided*, that if any person elected to the office of
16 commissioner shall not qualify for said office as herein prescribed
17 within ten days after he shall have been officially declared elected
18 thereto, said office shall *ipso facto* become vacant, and said vacancy
19 shall be filled in the manner provided for in this act.

Bond of Officers.

Sec. 42. Each member of the board of affairs, chief of
2 police and chief of fire department, shall, before entering upon
3 the discharge of their duties, give an official bond, conditioned
4 for the faithful performance of their respective duties as pre-
5 scribed in this act or any ordinance now or hereafter passed, in
6 amounts as follows:

7 The commissioner exercising the powers of mayor, two
8 thousand dollars; the commissioner exercising the powers of
9 sergeant, assessor and street foreman, ten thousand dollars; the
10 commissioner exercising the powers of city clerk, etc., one
11 thousand five hundred dollars; the commissioner exercising the
12 power of police judge, etc., five hundred dollars.

13 The board of affairs may require additional bond from any
14 of said appointive officers, and may likewise require a bond in
15 whatever sum they may fix, of any other appointive officer. All

16 bonds of appointive officers shall, before their acceptance, be ap-
17 proved by the board of affairs; and the bonds of the commis-
18 sioners shall be approved by the retiring board of affairs, (com-
19 mon council in the first instance). All other bonds of whatso-
20 ever kind shall not be accepted until first approved by the board
21 of affairs. The minutes of the meeting of the board shall show
22 all matters touching the consideration or approval of all bonds,
23 and when said bonds are approved and accepted they shall be
24 recorded by the city clerk in a well bound book kept by him at
25 his office for that purpose, which book shall be open to public
26 inspection; and the recordation of such bonds as aforesaid shall
27 be *prima facie* proof of their correctness, and they, as so recorded,
28 shall be admitted as evidence in all the courts of this state. The
29 city clerk shall be the custodian of all bonds, except those given
30 by him, and as to them the mayor shall be custodian.

31 All bonds, obligations or other writing taken in pursuance
32 of any provisions of this act shall be made payable to "the city
33 of Hinton" and the respective persons, and their heirs, executors,
34 administrators and assigns bound thereby, shall be subject to
35 the same proceedings on said bonds, obligations and other writ-
36 ings, for enforcing the conditions of the terms thereof, by motion
37 or otherwise, before any court of record held in and for the county
38 of Summers, that collectors of county levies and other sureties
39 are or shall be subject to on their bonds for enforcing the pay-
40 ment of the county levies.

Term and Salary of Officers.

Sec. 43. The term of office of a member of the board of
2 affairs and a member of the common council shall be for two
3 years, commencing on the first day of January next after the
4 general election, and ending on the thirty-first day of December
5 in the first year thereafter, that is, the first year after said
6 year, and until their successors are elected and qualified.

Sec. 44. All appointive officers shall hold for the term of
2 two years (unless sooner removed by and at the pleasure of the
3 board of affairs) and until their successors are appointed and
4 qualified.

Sec. 45. The salary of the commissioners shall be as follows:
2 The commissioner charged with the duties of the depart-
3 ment of fire, police, health and charity, shall receive a salary not
4 to exceed three hundred dollars per annum; the commissioner

5 designated and charged with the duties of the department of
6 finance, taxation and streets, shall receive a salary not exceeding
7 three hundred dollars per annum, and two per cent. commission
8 on all taxes and license collected except taxes paid by public
9 service corporations, on which he shall receive no commission,
10 unless the salary and commission from other taxes and licenses
11 shall not be sufficient to make his yearly compensation seven
12 hundred and twenty dollars, and in that event he shall be allowed
13 so much commission on the taxes received from public service
14 corporations to make his yearly compensation seven hundred and
15 twenty dollars, but in no event shall the commission exceed two
16 per cent. of the amount of taxes and licenses collected, whether
17 the compensation amounts to seven hundred and twenty dollars
18 per year or not; the commissioner charged with the duties of
19 the department of records shall receive a salary of not exceeding
20 the sum of one hundred and eighty dollars per year, and the
21 commissioner charged with the duties of the department of law
22 shall receive a salary not exceeding one hundred and fifty dollars
23 per year; each and all of the salaries herein provided shall be
24 payable monthly as their services shall have been rendered.
25 *Provided, however,* that if the board of affairs fail or refuse to
26 make their appointments of all appointive officers for a period
27 of thirty days, said commissioners thereafter, and until such ap-
28 pointments shall have been made, shall forfeit their salary; and
29 the mayor, city clerk and treasurer, or the commissioners charged
30 with their respective duties, shall take official notice of such
31 failure to fill said appointive offices, and shall not issue any order
32 for nor otherwise pay to the commissioners their salary for the
33 period of their failure to make said appointments.

Sec. 46. The board of affairs may by ordinance fix the
2 salaries of all appointive officers, which shall be subject to the veto
3 of the common council, as provided in section thirteen.

Sec. 47. Laborers by the day and those doing special work
2 may be paid by the board of affairs without fixing the price there-
3 for by ordinance.

Duties of Appointive Officers.

Sec. 48. The duties, in addition to those prescribed herein,
2 of all appointive officers named or authorized in this act, shall
3 be prescribed by the board of affairs.

ARTICLE X.

Meetings of Board of Affairs.

Sec. 49. The board of affairs shall meet at some place provided for that purpose at least once each month on a stated day and at any hour fixed by ordinance or rules governing the board.

Sec. 50. Special meetings of the board may be called by the mayor or any two members of the board by personal notice given to the other members thereof, and like notice to the public through and by at least one publication in two daily newspapers of the city of opposite politics, stating the time and object of the meeting; and no business, except that stated in said notice, shall be considered or acted upon at said meeting. All meetings of the board shall be open to the public.

How Vote Taken.

Sec. 51. The vote upon any question or motion before the board of affairs may be *viva voce* when unanimous; but if the question or motion does not receive the unanimous vote of the members present, then the vote shall be taken by roll call of the members and made a part of the minutes of the meeting; and when the vote is unanimous the minutes shall so state.

Minutes of the Meeting.

Sec. 52. The city clerk shall be *ex-officio* clerk of the board of affairs. Said board shall cause detailed minutes of its meetings and proceedings to be kept by the clerk in a well bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every regular or special meeting shall be read publicly at the next regular meeting of the board, and after being corrected shall be signed by the mayor and city clerk, and if thus recorded and signed, they shall be admitted as evidence in any court of record in this state.

Meetings of the Common Council.

Sec. 53. The common council shall meet bi-monthly the first Monday of the month, at an hour and at a place to be fixed by it by the rules governing its body.

Sec. 54. Special meetings of the common council may be called by its president, or any five members thereof, or by the

3 board of affairs, or by the mayor, by a notice published in two
4 daily newspapers of the city of opposite politics, on three con-
5 secutive days, stating the time and object of the meeting. The
6 holding of a special meeting of the common council shall be
7 *prima facie* evidence that the said notice required therefor was
8 given as prescribed in this section.

9 Each member of the common council shall receive the sum
10 of two dollars for each and every meeting of the council, either
11 regular or special, at which he is in attendance.

Attendance of Witnesses, Punishing Contempts, Etc.

Sec. 55. The board of affairs and the common council in
2 the exercise of their respective powers, and the performance of
3 their respective duties, as prescribed by this act and by the laws
4 of the state, shall have the power to enforce the attendance of
5 witnesses, the production of books and papers, and the power to
6 administer oaths in the same manner and with like effect, and
7 under the same penalties, as notaries public, justices of the peace,
8 and other officers of the state authorized to administer oaths
9 under state laws; and said board of affairs and said common
10 council shall have such power to punish for contempt as is
11 conferred on county courts by section thirteen of chapter thirty-
12 one of the code. All process necessary to enforce the powers con-
13 ferred by this act on the board of affairs and common council
14 shall be signed by the mayor (or acting mayor), and the presi-
15 dent of the common council, respectively, and shall be executed
16 by any member of the police force.

Quorum.

Sec. 56. A majority of the members of the board of affairs
2 and a majority of the members of the common council shall be
3 necessary for the transaction of business before said respective
4 boards.

Filling Vacancies in Office of Commissioner.

Sec. 57. Whenever a vacancy or vacancies, from any cause
2 whatever, shall occur in the office of commissioner, and the time
3 for a regular municipal election, as provided for in section
4 thirty-three herein, is not within one year therefrom, then the
5 board of affairs shall call a special election at which the qualified
6 voters of the city shall fill such vacancy or vacancies by the elec-

7 tion of some person or persons thereto; but the person or persons
8 so elected must be eligible to hold said office, and shall be of the
9 same political party as the person he succeeds in office.

10 Such special election shall be governed by laws of the state re-
11 lating to elections and as prescribed in this act for regular elec-
12 tions.

Sec. 58. If there shall occur at any one time more than two
2 vacancies on the board of affairs, the common council, by a
3 majority vote of all the members elected thereto, shall fill such
4 vacancies for the time being, but the person so appointed shall
5 be of the same political party as the commissioner whose office
6 was vacated and is being filled; and in no event shall such ap-
7 pointment be made so as to give any political party a majority
8 on the board of affairs; *provided*, before any such appointment
9 shall become final the person so appointed shall make and file the
10 oath required by section thirty-two of this act; and after the
11 filing of said oath the common council may, if it so elects, by a
12 majority vote of all members elected thereto, recall said appoint-
13 ments, or any one thereof, and such appointment from that time
14 shall be void and of no effect, and the vacancy caused thereby shall
15 be filled in the same manner and under the conditions prescribed
16 in the first instance.

17 Commissioners thus appointed by the common council to
18 fill vacancies on the board of affairs, shall, before entering upon
19 the discharge of their duties, take the oath required of other
20 officers of the city, and give the required official bond; and they
21 shall hold their said offices only until their successors shall have
22 been elected and qualified as prescribed in section fifty-seven of this
23 act.

Absence of Officers.

Sec. 59. When any member of the board of affairs, or any
2 appointive officer of the city shall from sickness or other cause
3 be unable, for a short space of time, to attend to the duties of
4 his office, the board of affairs, in case of the absence of a com-
5 missioner, may designate another commissioner to attend to the
6 duties of such absent commissioner in addition to his duties
7 already devolving upon him in the capacity of commissioner; and
8 in case of the absence of any appointive officer, the board may
9 appoint some other officer of the city or other person to perform
10 the duties of such officer, during his absence, either with or with-
11 out the salary, in whole or in part, of such absent officer.

Cannot Hold Any Other Office.

Sec. 60. The members of the board of affairs shall not hold
2 any other city office, except as prescribed in this act, nor be an
3 employe of the city in any other capacity with a compensation,
4 nor hold any other office or position, with or without compensa-
5 tion, which may interfere with the faithful discharge of their
6 duties as commissioner.

Sec. 61. No appointive officer of the city shall hold two
2 official offices with the city at the same time, or shall become the
3 employe of the city in any other capacity, without first having
4 the consent of the board of affairs.

Purchasing Supplies.

Sec. 62. The board of affairs shall purchase all the supplies
2 for the departments of the city government at the lowest price
3 possible considering the quality and grade of the supplies desired.
4 And when practicable, the board shall advertise by reasonable
5 notice in at least two daily newspapers of opposite politics, for
6 bids on supplies to be furnished, and shall award contract therein
7 (unless all bids are rejected), to the lowest bidder, taking from
8 such bidder a written contract and bond therein, to be approved
9 by the board, for the faithful performance of said contract.

ARTICLE XI.

Police Judge and Other Officers.

Sec. 63. All persons elected or appointed to the offices
2 named in this act shall be conservators of the peace within said
3 city, and they, and any other officer provided for under this act,
4 may be given authority of police officers by the board of affairs.

5 The commissioner herein charged with the powers and duties
6 of police judge shall be *ex-officio*, a justice of the peace, with au-
7 thority to issue warrants or other process for all offenses commit-
8 ted within the police jurisdiction of the city of Hinton of which
9 a justice of the peace has jurisdiction under the state laws, and
10 for all violations of any city ordinances; in order to preserve the
11 peace and good order of the city, and protect the persons and
12 property therein, riotous and disorderly persons in the city may
13 be arrested and detained before issuing any warrant therefor.
14 The police judge may, without fees or other compensation, com-
15 mit persons charged with felony or misdemeanor to jail, or take

16 bond for their appearance before the grand jury of the circuit
17 court of Summers county; and he shall have power to issue execu-
18 tions for all fines, penalties and costs imposed by him. And he
19 may require the immediate payment thereof, and in default of such
20 payment, may commit the person so in default to jail unless
21 the fine and penalty and costs shall be paid or satisfied, and to
22 be employed during imprisonment as provided by this act. Any
23 person sentenced to imprisonment, or any person or corpora-
24 tion assessed with a fine, shall be allowed to appeal from said
25 decision of the police judge in the same manner and under the
26 same conditions as appeals are allowed from a justice of the
27 peace, conditioned that the person proposing to appeal will per-
28 form and satisfy any judgment which may be recovered against
29 him by the circuit court on such appeal. If such appeal be
30 taken, the warrant of arrest, the transcript of the judgment, the
31 appeal bonds and other papers of the case, shall forthwith be
32 delivered by the police judge to the clerk of the circuit court, and
33 said circuit court shall proceed to try the case as upon indict-
34 ment or presentment, and render such judgment, including that
35 of costs, as the law and evidence may demand.

ARTICLE XII.

Vote on Franchises, Ordinances, Officers, Etc.

Sec 64. No franchise or ordinance shall be passed, and no
2 contract shall be awarded, nor any money appropriated for any
3 one purpose in a greater sum than twenty-five dollars, and no
4 appointments of any officer shall be made, nor any vacancy in
5 office declared without the affirmative vote of at least three
6 members of the board of affairs.

Sec. 65. When any franchise shall have passed the board
2 of affairs it shall not become effective until after the next
3 regular meeting time of the common council, or a special meet-
4 ing time of said body called to act on such franchise, and not
5 then if said common council at such meeting time expresses its
6 veto to said franchise, as provided in section thirteen of this act.

Sec. 66. If any ordinance passes the board of affairs, it
2 shall become effective as therein prescribed, unless vetoed by
3 the common council at its next regular meeting time, or special
4 meeting time called to act on said ordinance.

Sec. 67. Whenever the common council shall express its
2 veto of any franchise or ordinance passed by the board of affairs,

3 it shall not later than the second day thereafter, cause such
4 franchise or ordinance, with its veto thereof and its written
5 reasons therefor, addressed to the board of affairs, to be trans-
6 mitted to the city clerk, and the city clerk shall submit the
7 same to the board of affairs, at its regular meeting, or special
8 meeting called for that purpose, which shall be noted in the
9 minutes of said meeting; but a failure to transmit such franchise
10 or ordinance within said time shall not render such veto void.
11 If the franchise or ordinance shall be changed and again passed
12 by the board of affairs, it shall be treated as a new or original
13 ordinance and subject to the veto power of the common council.

Sec. 68. If there shall be a tie vote on the passage of any
2 franchise before the board of affairs, the mayor shall at once
3 transmit such franchise, with a written statement that the vote
4 on the passage of the same before the board of affairs was a tie,
5 to the president of the common council, who shall lay the same
6 before said common council at its next regular meeting time
7 thereafter, or prior special meeting time called for that purpose.
8 If upon consideration of said franchise by the common council
9 a majority of all the members elected to said common council
10 shall vote for the passage of said franchise as transmitted from
11 the board of affairs, it shall be considered passed and adopted,
12 and shall become effective as prescribed by the terms thereof.

13 The common council, through its president or otherwise,
14 after the expiration of the time for the consideration of said
15 franchise, shall at once transmit the same, with the action of the
16 common council, if any, addressed to the board of affairs, to the
17 city clerk who shall call the same to the attention of the board
18 of affairs at their next regular meeting, or special meeting
19 called for the purpose, at which shall be noted in the minutes
20 the action of the common council on said franchise.

Sec. 69. Publication of notice to present franchise, and
2 other preliminaries prescribed by the laws of the state relating
3 thereto, shall be had in the manner prescribed by state laws before
4 the board of affairs shall act on any such franchise; but the
5 passage of any franchise shall be *prima facie* proof that such
6 notice was given as prescribed by law.

7 The word "franchise," whenever used in this act, shall in-
8 clude every special privilege in, under and over the streets, high-
9 ways and public grounds of the city which does not belong to
10 the citizens generally by common right.

Sec. 70. The style of any ordinance enacted by the board of
2 affairs, shall be "Be it ordained by the Board of Affairs of the
3 City of Hinton."

ARTICLE XIII.

Licenses.

Sec. 71. Concerning anything for which a state license is
2 required to be done within the said county, the board of affairs
3 may require a city license therefor, and may impose a tax thereon
4 for the use of the city; and the board of affairs shall have the
5 power to grant, refuse or revoke any such license of owners or
6 keepers of hotels, carts or wagons, drays, and every other descrip-
7 tion of wheeled carriages kept or used for hire in said city, and to
8 levy and collect tax thereon, and to subject the same to such regu-
9 lations as the interest and convenience of the inhabitants of said
10 city, in the opinion of the board of affairs, may require. The board
11 of affairs, may, at its election, require from the person so licensed
12 a bond, with approved security, payable to the said city in such
13 penalty, and with such conditions, as it may think proper, and may
14 revoke such license at any time if the condition of the bond is
15 broken; and the board of affairs shall have authority to subject
16 any person or persons, who, without having paid the tax imposed
17 by the board of affairs for the privilege, shall do any act or follow
18 any employment of business in the said city upon which the said
19 board is or shall be authorized to impose a tax, to any fine or im-
20 prisonment which it is or may be authorized to impose or inflict
21 for the enforcement of its ordinances, *provided*, that the
22 board of affairs under limit hereby made shall not fix the license
23 tax on automobiles at more than five dollars on each car or
24 machine.

Nuisances.

Sec. 72. The board of affairs of said city shall have authority
2 to abate and remove all nuisances in said city. It may compel the
3 owners, agents, assignees, occupants or tenants, of any lot, prem-
4 ises, property, building or structure, upon or in which any nuisance
5 may be, to abate and remove the same by orders therefor, and by
6 ordinance provided for the violation of such orders.

7 Said board of affairs may also by its own officers, appointees
8 and employes, abate and remove nuisances. It may by ordinance,
9 regulate the location, construction, repair, use, emptying and

10 cleaning of all water closets, privies, cesspools, sinks, plumbing,
11 drains, yards, pens, stables, and other places, where offensive or
12 dangerous substances, or liquids are, or may accumulate, and pro-
13 vide suitable penalties for the violation of such regulations, which
14 may be enforced against the owner, agents, assignee, occupant or
15 tenant, of any premises or structure where such violation may occur.

16 If the owner, agent, tenant, assignee, or occupant of any such
17 premises, lot, property, building or structure, as is mentioned
18 herein, shall fail or refuse to abate or remove any such nuisance,
19 as mentioned herein, or to comply with the provisions of any such
20 ordinance, and the regulations herein contained, the said board of
21 affairs may have said nuisance abated or the provisions of said
22 ordinance or ordinances carried out, after reasonable notice to said
23 owner, occupant, tenant, agent or assignee of its intentions so to do,
24 and collect the expense thereof with one per centum per month
25 interest added from the date of said notice, from the owner, occu-
26 pant, tenant, agent or assignee by distress or sale, in the same man-
27 ner in which taxes levied upon real estate for the benefit of said
28 city are herein authorized to be collected, and the expense shall
29 remain a lien upon said lot, or part of lot, the same as taxes levied
30 upon real estate in said city; which lien may be enforced by a suit
31 in equity before any court having jurisdiction, as other liens against
32 real estate are enforced, and in case of non-resident owners of real
33 estate such notices may be served upon any tenant, occupant, as-
34 signee or rental agent, or by publication thereof for not less than
35 two consecutive weeks in two newspapers of opposite politics, pub-
36 lished in said city.

37 And in all cases where any tenant, occupant or agent is re-
38 quired to abate and remove any nuisance under the provisions of
39 this section, or comply with the provisions of any such ordinance
40 as is mentioned herein, the expense thereof may be deducted out
41 of the accruing or accrued rent of said property, or amount due
42 said owner from said agent, and such tenant, occupant or agent
43 may recover the amount so paid from the owner, unless otherwise
44 especially agreed upon.

45 Any expense incurred by the board of affairs, as herein pro-
46 vided, in the manner aforesaid, may be collected in the manner
47 herein provided, notwithstanding the imposition of any other
48 penalty or penalties upon any of the persons named herein, under
49 any of the provisions of this act. The abatement or removal of
50 any such nuisance by the board of affairs at the expense of said

51 city, as herein provided, shall be *prima facie* proof that the said
52 notice to the owner, occupant, tenant, agent or assignee, was given
53 as herein prescribed.

Sec. 73. The board of affairs may require all owners, tenants, and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage, which the said city may construct, own privies, water closets, cesspools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewerage.

Sidewalks and Shade Trees.

Sec. 74. The board of affairs are authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenue, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine, and to require the owners or occupiers of the land or lots or parts of lots facing upon said avenues, streets, roads or alleys to keep such sidewalks clean and in good repair, and to grade the plot of ground on either side of the sidewalk between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of the land or lots abutting upon such avenues, streets, roads or alleys shall not lay any such sidewalk, curb or gutter, or plant any such shade trees, unless specially required to do so by resolution adopted by said board, and then only in the manner prescribed by said board, but said city may lay such sidewalk, curb or gutter and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessment shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The

30 amount so assessed against any land or lot shall also be a debt
31 against the owner of such land or lot, which may be collected as
32 other debts are collected, in any court having jurisdiction, and
33 shall be due and payable in ninety days from the completion and
34 acceptance of such work as certified to by the board of affairs, with
35 six per cent. interest thereon from the date of such record accept-
36 ance. And in ascertaining the amount to be assessed against any
37 corner lot for the cost of laying any such sidewalk and planting
38 trees in front or alongside thereof, the board may assess the total
33 cost of laying such sidewalk, and planting trees, in front or along-
34 side said lot and extended to the curb or gutter of the intersection
35 of the avenues, streets, roads or alleys at that point.

36 When such work is done by the city, and not let to contract,
37 the board shall certify such assessments to the commissioner charg-
38 ed with the duties of sergeant, etc., of the city for collection, who
39 shall account for the same as directed by the board or by ordinance,
40 and the sergeant shall accept payment, when tendered, of the
41 amount of said assessment with interest to the date of payment,
42 and unless said assessments shall have been paid within ninety days
43 from the date of such assessment, then a copy of such report
44 shall be certified by the city clerk to the clerk of the county court
45 of Summers county, who is hereby required to record and index
46 the same in the proper trust deed book in the name of each person
47 against whose property assessments appears therein. If any such
48 assessment shall not be paid when due, the board of affairs shall
49 cause to be enforced the payment of said assessment and interest
50 in all respects as herein provided for the collection of taxes due
51 the city; and said assessment shall be a lien upon the property lia-
52 ble therefor, the same as taxes, which lien may be enforced in the
53 same manner as provided for the sale of property for the non-
54 payment of taxes and tax liens; and the liens herein provided for
55 shall have priority over all other liens except those for taxes due the
56 state and county, and shall be on a parity with taxes and assess-
57 ments due the city. When such assessment shall have been paid
58 in full, and a lien therefor shall be of record in the county clerk's
59 office, the sergeant shall execute and deliver to the owner of said
60 property a release of said lien, which may be recorded in the office
61 of the county clerk as other releases of liens are recorded.

62 The board may, if it so elect, let said work to contract, and
63 certificates may be issued for the amount of said assessments which
64 may be sold to the contractor doing the work, or other person, in

65 full of the total cost, in the same manner as provided for paving
66 certificates in section eighty-four herein; *provided*, the city, in
67 negotiating and selling such certificates, shall not be held as guar-
68 antor or in any way liable for payment therefor, except upon the
69 direct action of the board of affairs as expressed by resolution of
70 record before such sale. Said certificates, to be signed by the
71 mayor and city clerk or other person or persons designated of rec-
72 ord by the board, shall bear date as of the time when such work
73 is accepted and certified by the board of affairs, and shall be due
74 and payable in ninety days from date hereof, iwth six per cent. in-
75 terest. When the board shall have received said work, it shall at
76 the same time make said assessments upon written report; and at
77 the end of ninety days from date thereof, upon the demand in writ-
78 ing filed with the city clerk of the holder or holders of the unpaid
79 certificates issued to cover said assessments, said city clerk shall
80 certify a copy of said report, only in so far as it relates to the own-
81 ers against whom said exhibited certificates remain unpaid, to the
82 clerk of the county court of Summers county, who shall record and
83 index the same as other liens of like kind are recorded and indexed,
84 and the same shall be and remain a lien upon the real estate against
85 which said assessments are made, as set out in said certified re-
86 port, and said lien may be enforced, in the name of the holder of
37 such certificate in the same manner as set out in section eighty-
38 four in this act.

89 Before letting such work to contract, the board shall advertise
90 the same once a week for two consecutive weeks in two newspapers
91 of opposite politics published in the city of Hinton, or in one pa-
92 per in case publication cannot be had in two such papers, setting
93 out the time and place for receiving proposals for such work and re-
95 ferring to the specifications made therefor; and the city reserves
96 the right, whether stated in such notice or not, to refuse any and
97 all bids for the work. On refusal of said papers to publish said
98 notice at reasonable rates, the board may, by resolution, direct how
99 such notice may be given. The fact that such contract shall be
100 awarded for said work shall be *prima facie* proof that said notice
101 was given as required herein. Such lien, as represented by certifi-
102 cate, may be released of record in the office of the county clerk
103 in the same manner as paving liens, represented by certificate,
104 are released of record, as provided for in section eighty-seven
105 herein; and in no event shall such assessment be and remain a lien
106 of record for a longer period than one year from the date set out

107 in said certified report so recorded in the office of the county
108 clerk, unless at the end of said one year period a suit shall be
104 pending for the enforcement of said lien, or the amount thereof
105 shall, in some way, be involved in a suit pending at the end of
106 said one year period.

107 All such work, whether done by the city direct, or through
108 contractors, shall be under the supervision of the street depart-
109 ment of the city or some person designated for that purpose by
110 the board of affairs.

111 If the owner or occupier of any such lot or land shall be re-
112 quired by the board to lay or relay, clean or repair any such side-
113 walk, curb or gutter, or shall be required to grade the space on
114 either side of the sidewalk between the street curb and the prop-
115 erty line, and keep the same sodded and free from weeds or ob-
116 struction, and otherwise in good condition and repair, written or
117 published notice shall be given to such owner or occupier in the
118 manner provided by ordinance or resolution adopted by the board,
119 and the neglect or refusal of such owner or occupier to do the
120 work, in the manner and within the time required by the board,
121 as set out or referred to in said notice, shall be an offense and
122 may be punished as provided by ordinance; and after the expira-
123 tion of the time set out in said notice for the doing of said work,
124 and the same remains undone, the board may do or cause to be
125 done, said work and assess and collect the cost thereof in the man-
126 ner, upon either plan, and to the full extent set out in this section.

ARTICLE XIV.

Taxes, Levies, Assessments, Etc.

Sec. 75. The board of affairs shall annually, before the levy-
2 ing of taxes provided for and authorized by this act, ascertain the
3 total expense of said city to be provided for by levy for the fiscal
4 year in which said levy is made, and it shall ascertain the sum of
5 money necessary to pay interest accruing on the bonded indebted-
6 ness of said city, and to provide the necessary sinking funds, and
7 what amounts it shall expend for the support of its various depart-
8 ments, and for the improvements of its streets, alleys, avenues and
9 public grounds, or for its contingent expenses; and before making
10 such levy it shall apportion the rate thereof among the several
11 funds so ascertained and provided for, which apportionment shall
12 be spread upon the records of said board and a copy of a statement

13 thereof shall be annually published by direction of said board as
14 soon as the same is recorded, in at least two newspapers of said
15 city of opposite politics.

Sec. 76. The board of affairs shall have authority to levy and
2 collect an annual tax on real estate and personal property in said
3 city, and to impose a license and assess a tax thereon on wheeled
4 vehicles for public hire and upon all dogs kept within said city, and
5 to impose a tax upon all other subjects of taxation under the several
6 laws of the state, which taxes shall be uniform with respect to per-
7 sons and property within the jurisdiction of said city, and shall on-
8 ly be levied on such property, real, personal and mixed, and on cap-
9 ital, on which the state imposes a tax; *provided*, that no greater levy
10 shall be laid by said board of affairs on the taxable property of said
11 city than is now permitted to be laid under the state law relating
12 to municipalities, except, however, that the said board of affairs
13 may, by the unanimous vote of its members, by ordinance, lay an
14 additional levy not to exceed twenty cents on the one hundred dol-
15 lars of all the taxable property within said city; but said ordinance
16 laying said additional levy shall not become effective or operative if
17 two-fifths of all the members elected to the common council shall
18 express a veto to said ordinance in the manner prescribed in arti-
19 cle three of this act.

Sec. 77. All taxes assessed upon the real estate within the
2 said city shall remain a lien thereon from the time the same are
3 so assessed, which shall have a priority over all other liens, except
4 for taxes due the state, county or district, and all taxes whether
5 assessed upon realty or personalty or otherwise may be enforced
6 and collected in the same manner and by the same remedies as
7 is now or may hereafter be provided by law for the enforcement of
8 liens and levies for state and county taxes, or in such manner as
9 the board of affairs may by ordinance prescribe. And in levying
10 of taxes and collection thereof, and the return of property delin-
11 quent for non-payment of taxes, the duties of the city clerk shall
12 be similar to the duties of the county clerk of Summers county in
13 that behalf; the duties of the sergeant in the collection of taxes,
14 licenses and moneys due the city and accounting for the same and
15 the return of property delinquent for the non-payment of taxes,
16 shall be similar to the duties of the sheriff of Summers county;
17 except the board of affairs may make such regulations and ordi-
18 nances prescribing the duties of the city clerk and sergeant and
19 their manner of performance as the board may deem necessary.

20 And the board shall, through itself and such officers and employes
21 as it may appoint or employ under such regulations and ordi-
22 nances as it may enact (not contrary to the laws of this state),
23 having such authority and power as may be necessary for the levy-
24 ing and collecting of taxes, tithables, fines, licenses, sewer and
25 paving assessments owing the city, with power and authority to
26 enforce the collection of such fines by imprisonment in the city or
27 county jail.

Sec. 78. No taxes or levies shall be assessed upon or collect-
2 ed from the taxable persons or property within the corporate lim-
3 its of said city, for the construction, improvement or keeping in
4 repair of roads outside of said corporate limits, except as provided
5 for in section six, article two of this act. And neither the coun-
6 ty court of Summers county, nor the authorities of the district or
7 districts in which said city is situated, shall have or exercise jur-
8 isdiction within the corporate limits with relation to the roads,
9 streets, and alleys, except by article of agreement provided for in
10 section six, article two of this act, but the same shall be and re-
11 main under the exclusive jurisdiction and control of the munici-
12 pal authorities of said city, and said city shall be liable only for
13 the construction, improvement, repair and good order of the roads,
14 streets and alleys in its corporate limits.

Sec. 79. There shall be a tax of two dollars annually as-
2 sessed on each and every male inhabitant of said city, over twenty-
3 one years of age, by the board of affairs, and the same shall be set
4 out and included in the personal property book against every such
5 inhabitant, and shall be collected by the city treasurer or other
6 officer of the city acting in lieu thereof and under the authority
7 of the board of affairs, at the time of collecting other levies and
8 taxes. All money collected under this section shall go into the
9 street fund to be expended upon the streets, alleys, sidewalks,
10 drains, gutters and bridges of said city.

Depositing City Funds.

Sec. 80. It shall be the duty of the commissioner charged
2 with the duties of the sergeant to keep all funds of the city in
3 some bank or banks within said city which shall pay two per cent.
4 or more per annum interest on such deposits, payable quarterly,
5 based on the average daily balance of such funds in all accounts.
6 If no bank within said city is willing at any time to receive depos-
7 its of the sergeant and to pay such interest thereon, the sergeant

8 shall report this fact to the board of affairs who shall thereupon
9 designate a bank or banks in which he shall deposit said funds for
10 the time being and until some bank in said city will receive such
11 deposits said bank or banks shall give bond in the penalty pre-
12 scribed by the board of affairs, and with sureties to be approved
13 by said board, conditioned for the prompt payment, whenever law-
14 fully required, of all the city moneys, or parts thereof which may
15 be deposited with them, which bonds shall be renewed at such
16 times as the board of affairs may require.

Street Paving.

Sec. 81. (a) The board of affairs of the city of Hinton
2 may order and cause any avenue, street, road or alley therein to
3 be graded, or curbed, or recurbed with stone, concrete or other
4 suitable material, or paved or repaved, between curbs, with brick
5 wooden blocks, asphalt or other suitable material, or to be graded
6 and curbed or recurbed and paved or repaved as aforesaid, or to
7 be macadamized, or to be otherwise permanently improved or re-
8 paired, under such supervision as may be directed by ordinance
9 or resolution, upon the best bid to be obtained by advertising for
10 proposals therefor, except the city may do the work without letting
11 it to contract as hereinafter provided in (d) of this section; and
12 may purchase or condemn land for opening or widening avenues,
13 streets, roads and alleys. The entire cost, or any part thereof des-
14 ignated by the board of affairs, of such grading, curbing and pav-
15 ing, or macadamizing, or other permanent improvements, of any
16 of the avenues, streets, roads, and alleys as aforesaid, from and in-
17 cluding the curb of either side thereof to the middle thereof, and
18 the cost, or any part thereof, of purchasing or condemning land
19 as aforesaid for street purposes, may be assessed to and required
20 to be paid by the owners of the land, lots or fractional parts of the
21 lots fronting or bounding on such avenue, street, road or alley so
22 improved, except as otherwise provided in (g) of this section.

23 (b) Payment is to be made by all land owners on either side
24 of such portion of any avenue, street, road or alley so paved,
25 opened, widened, or improved in such proportion of the total cost
26 as the frontage in feet of his abutting land bears to the total
27 frontage of all the land so abutting on said avenue, street, road or
28 alley or portion thereof opened, widened, paved or improved as
29 aforesaid; but the cost of such paving or improvement on said
30 avenue, street, road or alley (not including opening or widening)

31 shall not include any portion or amount paid for the paving or
32 improvement of the intersection of avenues, streets, roads or al-
33 leys, unless the work to be done, and the payment made therefor,
34 as especially otherwise provided therein, as follows, to-wit:

35 (c) Upon petition in writing of the owners of not less than
36 one-half in lineal feet of property abutting upon any avenue,
37 street, road or alley in said city, asking the city to grade, curb,
38 pave, or macadamize or otherwise to permanently improve, such
39 avenue, street, road or alley, and offering in said petition to have
40 their property so abutting as aforesaid assessed not only with their
41 part of the cost of such improvement abutting upon their prop-
42 erty, as therein otherwise provided, but also offering to have their
43 said property proportionately assessed with the total cost of the
44 paving, grading and curbing, or macadamizing or other perma-
45 nent improvement, of the intersections of the avenue, street, road
46 or alley so paved or otherwise permanently improved, as petition-
47 ed for, the board of affairs may order such work to be done, as
48 heretofore provided in this section, and the total cost thereof, in-
49 cluding cost of intersection, to be charged to and paid by the
50 owners of the property abutting on such avenue, street, road or al-
51 ley, and that the paving assessment or certificate made or issued
52 to cover the cost of paving, grading and curbing or otherwise per-
53 manently improving such intersections shall be made a separate
54 and one of the last assessments or certificates due against him and
55 their property so assessed; and the city may assume the payment
56 of such assessment or certificate covering the cost of such intersec-
57 tions, or may reimburse the property owners paying the same out
58 of its general levies for streets, but there shall be no legal obli-
59 gation on the city to do so.

60 (d) The city itself may do such work and charge and col-
61 lect the cost thereof in the manner set out in section eighty-two
62 herein. The decision of the city to do such work may be with-
63 out notice or after the publication of the notice mentioned in this
64 section, or after the rejection of all bids for the doing of the work.

65 (e) The cost of grading, curbing and paving, or otherwise
66 improving, the intersections, or parts of intersections, of aven-
67 nues, streets, roads or alleys, on the plans adopted by the board of
68 affairs for such work, shall be paid by the city except as otherwise
69 provided in paragraph (c) of this section.

70 (f) And if any such avenues, streets, roads or alleys be oc-
71 cupied by street car tracks or tracks of other railroads the cost of

72 said improvement of the space between the rails and two addi-
73 tional feet outside of each rail shall be assessed to and borne and
74 paid entirely by the person or company owning or operating such
75 street car or other railway line, unless otherwise provided by the
76 franchise of such street car or other railway company granted pre-
77 vious to the passage of this act.

78 (g) *Provided*, the board of affairs, if they so elect, may order
79 and cause any avenue, street, road or alley, public park or public
80 place to be widened, graded or changed in grade and curbed and
81 recurbed, and paved or repaved, with brick, concrete, asphalt or
82 other suitable materials, or macadamized, or otherwise permanent-
83 ly improved, including the construction of the retaining walls,
84 sewers, drains, water pipes, water dam and water courses, in con-
85 nection therewith, and may purchase land, or condemn land as
86 provided in this act, for any public avenue, street, road or alley, or
87 part thereof, or park or other public purpose and the board may
88 assess all or any part of the entire cost of such improvement (or
89 taking of land, or both) upon the abutting, adjacent, contiguous
90 or other lots or land especially benefited by such improvements.

91 The board of affairs, when they decide to order the improve-
92 ments under this plan, shall, by ordinance or resolution before do-
93 ing the same fix the total amount of the special benefits to be de-
94 rived from such improvements to the abutting, adjacent, contigu-
95 ous and other specially benefited land or lot so assessed, setting
96 out the names of the owners, the amount of the special benefits,
97 and the approximate amount of the total cost of the proposed im-
98 provements; and the board may, in fixing such assessment, take
99 into consideration the assessed value of the lot or land as fixed, for
100 the last assessment year, for state and county purposes.

101 (h) When the board of affairs shall deem it expedient and
102 proper to cause any avenue, street, road or alley, or any portion
103 thereof, in such city, to be graded, or graded and paved, curbed
104 or macadamized, or otherwise permanently improved, or land to
105 be acquired or taken for street purposes, as provided in (a) of this
106 section, or shall deem it expedient and proper to cause the con-
107 struction of any public sewer in or under any such avenue, street,
108 road or alley, or land or easement therein to be acquired or taken
109 therefor, or elsewhere, as provided in section eighty-six of this
110 act, they shall by ordinance or resolution, order the work done,
111 stating the method of payment thereof, and, if it be let to con-
112 tract, notice shall be in the following manner, to-wit:

113 (i) The notice for bids or proposals for doing such improve-
114 ments, either for street improvements or the construction of sew-
115 ers, shall be published for at least fifteen days in two newspapers
116 of opposite politics, or in one newspaper if two such newspapers
117 be not published in the city. If the publication of the notice can-
118 not be procured in any newspaper in said city at reasonable rates,
119-121 then said notice may be given in the manner directed by the
122 board. Said notice shall state where and how the bids or pro-
123 posals shall be made; and whether so stated in the notice or not,
124 the city may reject any and all bids, for such proposed work. Be-
125 fore advertising for bids on the work, the city shall approve and
126 adopt plans and specifications therefor, and the advertisement
127 for bids, and the contract awarded thereon, shall refer to such
128 plans and specifications. The fact that such contract shall be let
129 for said work shall be *prima facie* proof that the notice mentioned
130 above was given as required therein.

131 (j) The cost of said paving, macadamizing or other perma-
132 nent improvement may be paid in one or two ways (to be spec-
133 ified by ordinance by the board of affairs), either as set out in
134 section eighty-two or in section eighty-four of this act.

135 (k) If the abutting land on any such avenue, street, road or
136 alley, sought to be improved as aforesaid, or in which a sewer is
137 ordered laid, is not laid off into lots by a map or record, the board
138 of affairs, may, for the purpose of making the assessments pro-
139 vided for in this section and section eighty-six therein, lay off
140 such lands into lots of such size as the board deems advisable for
141 the purpose of laying a proper assessment against such land.

Sec. 82. (a) Said city of Hinton is hereby authorized to
2 issue its bonds for the purpose of providing for the cost of grading,
3 paving and curbing, or macadamizing, or otherwise permanently
4 improving the avenues, streets, roads and alleys of the said city,
5 in anticipation of special assessment to be made upon the property
6 abutting upon the avenues, streets, roads and alleys so improved.
7 Said bonds may be in such an amount as shall be sufficient to pay
8 the entire costs and expenses of said improvements for which such
9 special assessments are to be levied; and the said city is author-
10 ized to sell said bonds, but not below the par value thereof, and
11 said bonds shall bear interest not to exceed six per cent. per an-
12 num, payable annually; and in the issuance and sale of said bonds
13 the said city shall be governed by the restriction and limitations of
14 the constitution of this state, and the restriction and limitations

15 of the laws of this state, relating to the issuance and sales of
16 bonds, so far as such state laws are not in conflict with the provis-
17 ions of this act; and the assessments as provided for and required
18 to be paid herein shall be applied to the liquidation of said bonds
19 and interest thereon, and if, by reason of the penalties collected
20 with the delinquent assessments, there be any balance after the
21 payment of the bonds and all accrued interest and costs, it shall be
22 turned into the city treasury to the credit of the interest and sink-
23 ing fund of the city.

24 But said city shall not become indebted in any manner or for
25 any purpose to an amount including existing indebtedness, in the
26 aggregate exceeding two and one-half per centum on the value of
27 all the taxable property therein, as provided in chapter fifty-one of
28 the acts of the legislature of one thousand nine hundred and five,
29 except for the purpose of grading, curbing, paving, macadamizing,
30 or otherwise permanently improving the avenues, streets, roads,
31 and alleys therein, or constructing sewers therein or elsewhere, or
32 acquiring or taking land or easement therein for street and sewer
33 purposes, as provided for in this act, and for that purpose in esti-
34 mating "existing indebtedness," special assessment bonds repre-
35 senting the cost of paving or other permanent improvements of
36 streets, roads or alleys, or the construction of sewers, or acquiring
37 or taking land for such purposes, and the cost of which is assessed
38 against the abutting property on such avenues, streets, roads or
39 alleys, or specially benefited property adjacent thereto, or on such
40 owner, shall not be included; and likewise the amount in any sink-
41 ing fund, or the amount invested therefor as provided by law, for
42 the payment of outstanding bonds, shall not be included in the
43 estimate of existing indebtedness; *provided*, that the aggregate of
44 its debt of every kind whatsoever, including such special street per-
45 manent improvement bonds, or sewer bonds, shall not exceed five
46 per centum of the value of all taxable property therein.

47 (b) And it shall be the duty of the board of affairs to im-
48 mediately certify such assessments to the sergeant for collection,
49 as herein provided; and for the purpose of facilitating the collec-
50 tion of such assessments against the properties herein, the board
51 of affairs may issue assessment certificates, with interest coupons
52 attached thereto, to be delivered to and charged against the city
53 sergeant who shall collect the same, and as such certificate and
54 coupons are paid he shall deliver the cancelled certificates to the
55 party paying the same. A copy of said order shall be certified by

56 the city clerk to the clerk of the county court of Summers county,
57 who is hereby required to index the same in the proper trust deed
58 book in the name of each person against whose property assess-
59 ments appear therein.

60 (c) The amounts so assessed against said abutting lots and
61 owners thereof, respectively, shall be paid in ten payments, as fol-
62 lows, that is to say, one-tenth of said amount, together with inter-
63 est on the whole assessment for one year, shall be paid into the
64 city treasury of the city before the first day of the following Jan-
65 uary; and a like one-tenth part, together with interest for one year
66 upon the whole amount remaining unpaid before the first day of
67 January in each succeeding year thereafter, until all shall have
68 been paid. Each of said installments of one-tenth shall bear in-
69 terest at six per centum per annum payable annually from the
70 date of assessment. *Provided, however,* that the owner of any
71 land, so assessed for the cost of the paving of said avenue, street,
72 road or alley, shall have the right at any time to anticipate and pay
73 the whole of such unpaid assessment and interest thereon until
74 the first day of the following January, and have the lien against
75 the property so assessed released as hereinafter provided.

76 (d) If any such assessment shall not be paid when due, the
77 board of affairs shall cause to be enforced the payment of said
78 assessment and interest in all respects as herein provided for the
79 collection of taxes due the city; and said assessments shall be a
80 lien upon the property liable therefor the same as for taxes, which
81 lien may be enforced in the same manner as provided for the sale
82 of property for the payment of taxes and tax liens; and the liens
83 herein provided for shall have priority over all other liens except
84 those for taxes due the state and the county, and shall be on a
85 parity with taxes and assessments for the city.

86 (e) When all of said assessments for grading, paving and
87 curbing, or macadamizing, or other permanent improvements shall
88 be paid in full to the sergeant, he shall deliver to the owner of said
89 property a release of the lien therefor, which may be recorded in
90 the office of the clerk of the county court as other releases of liens
91 are recorded.

92 Under this plan for the payment of the cost of such perma-
93 nent improvements of avenues, streets, roads and alleys, and the
94 construction of sewers, the contractor (if the work is let to con-
95 tract) shall look only to the city for the payment of the work, and
96 in no sense to the abutting land owners.

97 (f) The board of affairs may contract for such paving (in-
98 cluding grading and curbing), or other said improvements to be
99 as aforesaid, and may acquire or take land for street purposes, as
100 aforesaid, and may, if the board so elect, stipulate that the costs
101-2 thereof, in whole or in part, shall be paid in installments by the
103 abutting property owners, as provided in (a) of section eighty-
104 one, or specially benefited property owners, as provided in (g) of
105 said section, in five equal installments, to be evidenced by five
106 paving certificates issued therefor, payable in thirty days and
107 one, two, three and four years, respectively, after the date of their
108 issue, and shall bear interest not to exceed six per centum per
109 annum, payable annually, which certificate, to be signed by the
110 mayor and the clerk, or other person or persons designated of rec-
111 ord by the board, may be sold, either to the contractor doing the
112 paving or other of said improvements, or to any other person,
113 and which shall cover the entire cost of such work, or the cost of
114 acquiring or taking land for street purposes, including the cost
115 of surveys, notices and other things pertaining thereto; *provided*,
116 the city in negotiating and selling such certificates, shall not be
117 held as guarantor or in any way liable for payment thereof, ex-
118 cept upon the direct action of the board of affairs as expressed by
119 resolution of record before such sale. And the certificates cov-
120 ering the amount of the assessment shall be paid by the owner
121 of the land, lot or fractional part thereof, so assessed for the cost
122 of said improvement on such avenue, street, road or alley so pav-
123 ed or improved, of land acquired or taken, as aforesaid. The
124 amount specified in said assessment certificate shall be a lien as
125 aforesaid in the hands of the holder thereof upon the lands, lot or
126 part of lot so assessed, and shall also be a debt against the owner
127 of such real estate, and said amount shall draw interest from the
128 date of said certificates, payable annually, and the payment of the
129 debt may be enforced as provided by law for the collection of other
130 debts, or such lien may be enforced as provided in this act in the
131 name of the holder of such certificates.

132 After a contract has been made by the board to pave or other-
133 wise permanently improve any public road, avenue, street or al-
134 ley in said city under this act, and the paving or other permanent
135 improvements, or any stipulated part thereon, has been complet-
136 ed, or the cost of acquiring or taking land, as aforesaid, has been
137 ascertained, the board shall assess the amount each lot shall bear
138 and shall make a written report, stating the number of lots and

139 the blocks or tracts of land when not laid off into lots and the
140 names of the owners of such lots or land when known, and the
141 amount assessed thereon; and when the said board approves said
142 report, or modifies it and then approves it, a copy of said report,
143 so adopted by the board, when certified to by the city clerk of said
144 city, may be recorded in the clerk's office of the county court of
145 Summers county in a trust deed book, and shall be a continuing
146 tax lien upon the lot or land against which the assessment is made
147 until the certificates as aforesaid are paid, except as otherwise
148 provided in section eighty-seven of this act, and the clerk shall in-
149 dex the same in the name of each lot or land owner mentioned
150 therein.

Sec. 83. Payment is to be made by all land owners on
2 either side of such portion of any avenue, street, road or alley so
3 paved or improved in such portion of the total cost (less the por-
4 tion, if any, chargeable to the street or other railway company) as
5 the frontage in feet of his abutting land bears to the total frontage
6 of all the land so abutting on said avenue, street, road or alley or
7 portion thereof paved or improved as aforesaid; but the cost of
8 such paving or improvement on said avenue, street, road or alley
9 shall not include any portion or amount paid for the paving or
10 improvement of intersections of avenues, streets or alleys.

11 When the paving or improvement of any such avenue, street,
12 road or alley, or portion thereof, shall have been completed, under
13 the contract awarded therefor, the board of affairs shall cause the
14 several frontages abutting thereon to be measured, and cause the
15 assessment upon each owner of land abutting thereon to be calcu-
16 lated, showing the proper amount to be determined as provided
17 in the foregoing plan; and the said board of affairs shall enter the
18 same together with the description of the lots of land as to loca-
19 tion, frontage and ownership, upon its record, and direct on its
20 records that such owners and lots be assessed and chargeable with
21 the amounts so ascertained to be borne by them, respectively, and
22 when so approved and entered of record the same shall be and
23 constitute an assessment against said owners and lots for such re-
24 spective amounts.

Sec. 84. The board of affairs may, if they so elect, cause
2 the costs of any such grading, paving, curbing or macadamizing
3 or other permanent improvements, to be paid in the following man-
4 ner, to-wit:

5 Whenever the board of affairs shall contract for such paving

6 or other permanent improvement to be done, and that it shall be
7 paid in installments by the property owners, fronting on such
8 streets, avenues, or alleys as aforesaid, the board may cause the
9 mayor and city clerk to issue to the contractor doing the paving,
10 or other said improvement, a certificate for each installment of the
11 amount of assessment to be paid by the owner of the lot, or frac-
12 tional part thereof, fronting on such street, avenue, road or alley;
13 and the amount specified in said assessment certificate shall be a
14 lien as aforesaid in the hands of the holder thereof, upon the lot
15 or part of lot fronting on the street, avenue, road or alley so im-
16 proved, and said amount shall draw interest from the date of said
17 assessment, and the payment may be enforced as set out in this
18 act, in the name of the holder of such certificate; and after a con-
19 tract has been made by the board to pave or otherwise permanently
20 improve any public highway, street or alley in said city, under
21 this act, and paving or other permanent improvements, or any
22 stipulated part thereof, has been completed, the said board shall
23 assess the amount each lot shall pay for the improvement so made,
24 and shall make a written report, stating the number of lots and
25 the blocks and the names of the owners of such lots when known
26 and the amount assessed thereon; and when the said board ap-
27 proves said report, or modifies it and then approves it, a copy of
28 said report, so adopted by the board, when certified to by the city
29 clerk of said city, may be recorded in the clerk's office of the coun-
30 ty court of Summers county, in the trust deed book, and shall be
31 a continuing tax lien upon the lot against which the assessment is
32 made, until the certificates as aforesaid are paid, and the clerk
33 shall index the same in the name of each lot owner mentioned
34 therein; and upon the presentation by the lot owner of all the cer-
35 tificates issued as aforesaid against the lot owner, the clerk of said
36 court shall mark upon the margin of the book in which said certified
37 report is recorded, that the lien is released as to the lot mentioned
38 in the certificate produced.

39 The board of affairs may order any such avenue, street, road
40 or alley, between the curbs and between designated points, to be
41 graded or graded and paved or otherwise permanently improved
42 in the manner authorized and provided in section eighty-one here-
43 of, and may order proper curbs of stone, cement or other suitable
44 material to be set on both sides of the avenue, street or alley so
45 paved or improved, and the entire cost of grading, paving and set-
46 ting curbs may be assessed to the owners of the lots or fractional

47 parts of the lots fronting or bounding on such avenue, street or
48 alley between such designated points in proportion to the distance
49 so fronting or bounding owned by each, except the cost of intersec-
50 tion, which shall be borne and paid by the city. The cost of such
51 grading, paving and setting of curbs to be borne by the abutting
52 owners as herein provided, shall be paid in installments as pro-
53 vided in section eighty-two hereof, and shall become liens and be
54 enforceable as provided by section eighty-two hereof and the work
55 hereby authorized to be done by the board of affairs and the as-
56 sessment therefor, hereby authorized to be made, shall be subject
57 to sections eighty-one and eighty-two hereof, and the board shall
58 proceed in relation thereto in accordance with said sections eighty-
59 one and eighty-two.

Sec. 85. Upon the petition in writing of the owners of not
2 less than one-half in lineal feet of property abutting upon any ave-
3 nue, street or alley in said city asking the board of affairs to grade,
4 curb, pave or macadamize or otherwise permanently improve such
5 avenue, street or alley, and offering in said petition to have their
6 property so abutting as aforesaid assessed not only with their part
7 of the cost of such improvements abutting upon their property
8 as provided for in section eighty-one of this act, but also offering
9 to have their said property proportionately assessed with the total
10 cost of the paving, grading, curbing or macadamizing or other
11 permanent improvements of the intersection of the avenue, street
12 or alley so paved or otherwise permanently improved as petitioned
13 for, the board of affairs may order such avenue, street or alley to
14 be paved or otherwise permanently improved as provided in section
15 eighty-one herein and the paving certificates issued to cover such
16 intersection shall be made separate and the last certificate due
17 against them and their property so agreed to be assessed; and the
18 city may pay such last mentioned certificate, or may re-imburse
19 the property owners paying the same, out of the general levy for
20 streets and wharves, but there shall be no legal obligations on said
21 city to do so.

Sewer Construction.

Sec. 86. The board of affairs of said city are authorized and
2 empowered to order and cause to be constructed in said city, or part
3 within and part outside the limits of said city, any public sewer,
4 either main or lateral, or both, by contract, or direct by the city,
5 for the benefit of said city or any part thereof, and to purchase land
6 or easement therein, or to condemn land or easement therein, in

7 the manner provided in this act, for such sewer; and when the
8 board shall order the construction of any such sewer or any part
9 thereof in said city, the owners of the property abutting thereon,
10 or abutting upon an avenue, street, road or alley, in which such
11 sewer shall be constructed, or abutting on any land or easement
12 therein specially procured for the purpose of the construction of
13 a sewer therein, may be charged with all or any part of the cost
14 thereof, including the cost of such sewer at and across intersec-
15 tions at avenues, streets, roads and alleys adjacent thereto. If
16 said work is let to contract, the provision of (i) of section eigh-
17 ty-one shall apply.

18 When said sewer is completed in any block, or between two
19 designated points, the board of affairs shall cause a report to be
20 made in writing, setting out the total cost of such sewer and a de-
21 scription of the lots or land as to location, frontage and owner-
22 ship liable therefor, including the cost of acquiring or taking land
23 or easement therein for such purposes and cost of surveys, no-
24 tices, etc., therefor, together with the amount chargeable against
25 each lot or piece of land and the owner thereof. If any lot fronts
26 on two streets, or on a street and a road, or on a street (or road)
27 and alley, in which a sewer is constructed, it may be assessed on
28 both said street, or street and road, or street and alley. Said
29 board shall enter an order upon its records setting forth the loca-
30 tion and owner of each lot or piece of land, and the amount of
31 said sewer assessments there against, calculated in the same way
32 as provided for street paving in (g) of section eighty-one herein.
33 The entry of such order shall constitute and be an assessment for
34 such proportionate amount so fixed therein against said respective
35 lots and land and the owners thereof; and said board shall there-
36 upon certify the same to the treasurer for collection; and for the
37 purpose of facilitating the collection of such assessments against
38 the properties herein, the board of affairs may issue assessment
39 certificates, with interest coupons attached thereto, to be delivered
40 to and charged against the city treasurer who shall collect the
41 same, and as such certificates and coupons are paid he shall de-
42 liver the cancelled certificates to the party paying the same; and
43 the city clerk shall file a certified copy of said order with the
44 clerk of the county court of Summers county, who shall record
45 same in the proper trust deed book, and index the same in the
46 name of each owner of any lot or land thus charged with said
47 assessment, and the assessments so made shall constitute and be

48 a lien upon said lots or land, respectively, which shall have prior-
49 ity over all other liens except those for taxes due the state and
50 county, and shall be on a parity with other taxes and assessments
51 due the city.

52 The amounts so assessed against said abutting lots or land,
53 and which shall be a lien thereagainst, shall be collected in the
54 manner provided in this act for the collection of paving liens.
55 Said assessments shall be divided into three installments, each
56 for one-third of the amount thereof, and the first due and paya-
57 ble in thirty days, the second in one year, and the third in two
58 years, from the time of certifying the same to the sergeant except
59 as hereinafter provided in this section, all bearing interest at six
60 per centum per annum from such date, payable annually; and
61 the board of affairs may issue sewer certificates thereon, as of
62 said date, as further evidence of said indebtedness and lien there-
63 for, and said certificates may be sold or negotiated, at not less
64 than par and without any kind of discount, to the contractors do-
65 ing such work, or other person if the board deem it expedient;
66 *provided*, the city in negotiating and selling such certificates shall
67 not be held as guarantor or in any way liable for payment there-
68 of, except upon the direct action of the board of affairs as ex-
69 pressed by resolution of record before such sale. But the owner
71 of the land or lot so assessed may at any time anticipate and pay
72 such assessment or certificate with interest thereon on the whole
73 unpaid amount till the time when the next certificate shall
74 become due. If such assessment shall not exceed fifteen dollars,
75 it shall be in one amount, due and payable thirty days from date;
76 if more than fifteen dollars and less than thirty dollars, then in
77 two installments of equal payments, due and payable in thirty
78 days and one year, respectively, from date; and if more than thir-
79 ty dollars, then in three equal installments and payable as first
80 aforesaid.

81-82 *Provided*, the board of affairs may, if they so elect, order and
83 cause the construction of any such sewer, and may acquire or take
84 land or easement therein, either in or outside said city, or both,
85 for said sewer purposes, and assess all or any part of the cost
86 thereof upon and against the abutting, adjacent, contiguous and
87 other lots or land especially benefited by the construction of
88 such sewer, and said assessment shall be a lien upon such lots or
90 lands, and a debt against the owners thereof for the amount so
91 charged against them respectively, which debt may be collected

92 as provided by law for the collection of other debts of like kind,
93 and which lien may be enforced in the same manner as provided
94 for the enforcement of paving liens in this act.

95 The board of affairs, when they decide to order the construc-
96 tion of the sewer under this plan, shall, before doing the same,
97 fix, by ordinance or resolution, the total amount of the special
98 benefits to be derived from such improvements to the abutting,
99 adjacent, contiguous, and other specially benefited land or lots
100 so assessed, setting out the names of the owners, the amount of
101 the special benefits, and the approximate amount of the total
102 cost of the proposed sewer, and the board may, in fixing such
103 assessments, take into consideration the assessed value of the
104 lots or land as fixed, for the last assessment year, for state and
105 county purposes.

Release of Liens.

Sec. 87. In addition to the provisions for the release of said
2 assessment liens, either for street paving or other permanent
4 street improvements, or construction of sewers, as elsewhere set
5 out in this act, on the presentation by the land or lot owner of
6 any of the certificates issued as aforesaid against him or his pre-
7 decessor in title to such lot, the clerk of the county court shall
8 mark upon the margin of the trust deed book at which said cer-
9 tified report is recorded, that the lien is released to the land or lot
10 mentioned in such certificate to the extent of the amount of the
11 certificates thus exhibited; and the county clerk shall thereupon
12 write across the face of each of said certificates the date of their
13 production to him for the release of lien and shall sign his name
14 thereto in his official capacity for which he shall receive in ad-
15 vance a fee of twenty-five cents for each certificate so marked,
16 from the person demanding the release of the lien aforesaid; but
17 if more than one of the serial certificates against the land or lot
18 or lots shall be produced at the same time, the fee of the county
19 clerk shall not exceed twenty-five cents for the release of the liens
20 as to all of the certificates thus produced and relating to the
21 same real estate.

22 *Provided*, that the owner of any lot or land against which
23 any paving or sewer certificate is an unreleased lien of record
24 shall make and produce to the county clerk an affidavit, or some per-
25 son for such owner shall make and produce such affidavit, setting
26 out therein that such certificate (or certificates) has been paid in

27 full, and after diligent search, cannot be found, said county clerk
28 shall, upon the payment of a fee of twenty-five cents, file and
29 preserve said affidavit as a public document and shall forthwith
30 note the release of said lien to the extent of said lost certificate
31 (or certificates) and the lots or land against which it is a lien
32 upon the margin of the trust deed book, as aforesaid, and noting
33 therewith the filing of said affidavit, which shall operate as a re-
34 lease of such lien to the extent of such marginal notation. If
35 the affidavit so filed be false, the person making oath and sub-
36 scribing thereto shall be guilty of a felony, and upon conviction
37 thereof shall be fined not to exceed five hundred dollars, or sen-
38 tenced to be confined in the penitentiary for a term of not more
39 than one year, or both, in the discretion of the court passing
40 sentence.

41 *Provided, further,* that any paving or sewer lien, which
42 may be created in consequence of the provisions of this act, or
43 any lien, which may have heretofore been created in consequence
44 of an act of which this is an amendment, for an assessment, the
45 last payment of which is not yet due, shall not, under any cir-
46 cumstances, be a lien against the lot or land or fractional part
47 of the lot or land, against which it may have been assessed and
48 made a lien, for a longer period than one year after the last as-
49 sessment or certificate of the same date and group, representing
50 such lien, shall have become due and payable, unless some suit
51 or action, at the termination of said one year period, shall be
52 pending for the enforcement of such lien, or unless the amount
53 of the lien or some part thereof is in some way involved in a suit
54 or action pending at the end of said one year period; and further,
55 that no such paving or sewer lien heretofore placed to record in
56 said county court clerk's office for an assessment, the last payment
57 of which is past due, shall remain or be a lien against the real
58 estate therein described for a longer period than one year from
59 the time this act takes effect, unless a suit shall be pending at
60 the end of each one year period for the enforcement of said lien,
61 or the amount thereof shall in some way be involved in some ac-
62 tion then pending.

63 All of the assessment certificates, which may be issued un-
64 der the provisions of this act, shall be made payable at the of-
65 fice of the treasurer, who shall receive payments thereon when
66 due, if tendered to him, and interest thereon from the date of
67 such payments shall cease. The treasurer shall keep a separate

68 and special account of all said sums of money received by him,
69 and he shall hold said money in trust for the persons who there-
70 after deliver to the treasurer for cancellation any and all certifi-
71 cates on which said treasurer has received full payment as afore-
72 said; but the owner of said certificates shall not be entitled to
73 interest on said sum after the date of payment thereof to the
74 treasurer. When the whole amount of any such assessment lien
75 shall have been paid to the treasurer as aforesaid, or the treas-
76 urer shall be convinced that all of the paving or sewer certifi-
77 cates against any land, lot or fractional part of lot, shall have
78 been paid in full, he shall, when demanded, execute a release
79 of said lien in the manner hereinbefore provided for the release
80 of paying liens. If the city shall have no person for treasurer,
81 the sergeant, unless some other person is designated by ordinance,
82 which the board of affairs is hereby authorized to enact, shall per-
83 form the duties here required to be performed by the treasurer.

Sec. 88. It shall be lawful for said city of Hinton to issue
2 and sell its bonds, as provided in this act for the sale of other pav-
3 ing and sewer bonds, to pay the city's part of the cost of the con-
4 struction of said sewers and the paving or other permanent im-
5 provements of streets and alleys, as required by this act; and
6 said city may levy taxes, in addition to all other taxes, author-
7 ized by law, to pay such bonds and interest thereon; *provided*,
8 that the total indebtedness of the city for all purposes shall not
9 exceed five per centum of the total value of all taxable property
10 therein.

11 It is especially provided that no bonds shall be issued un-
12 der the provisions of this act, unless and until the question of
13 issuing said bonds shall have first been submitted to a vote of the
14 people of said city, and shall have received three-fifths of all
15 votes cast at said election for and against the same. The board
16 of affairs of said city may provide by ordinance for submitting
17 to the people at any regular election, or special election called
18 for that purpose, the question of whether or not said city shall
19 be authorized to issue bonds for the purpose specified in this act;
20 but the ordinance relating to the issuance of said bonds, and the
21 submission of the same to the vote of the people, need not specify
22 in detail the location of the improvements contemplated to be paid
23 out of said aggregate issue authorized thereby; and if at such elec-
24 tion the people, by their vote thereon, shall authorize the issu-
25 ance of said bonds, said board of affairs may order the sale of

26 same, as needed for said improvements, dealing with all the re-
27 quirements set forth in this act; and notwithstanding the pro-
28 visions of sections two, three and six of chapter forty-seven-a of
29 the code, it shall be sufficient description of the purpose for which
30 said election is held for the ordinance calling the same, or sub-
31 mitting said question to a vote at any general election, if it shall
32 recite that it authorizes the board of affairs to issue bonds for the
33 purpose of grading, paving, curbing, sewerage, or otherwise per-
34 manently improving the streets, roads and alleys of said city, at
35 such times as to the board of affairs shall seem fit or expedient.

36 The provisions of chapter forty-seven-a of the code, concern-
37 ing bond elections, shall, so far as they are not in conflict with the
38 provisions of this chapter, apply to the bond election and special
39 bond election herein provided for.

Sec. 88-a. For the purpose of leasing, purchasing or erect-
2 ing, owning, maintaining and operating a system of water works
3 for the city and the inhabitants and industries thereof, and the
5 tory of the city of Hinton which the board of affairs may from
6 time to time agree to supply from the city water works, as pro-
7 vided for in this or any other act of the legislature, said city of
8 Hinton is hereby authorized to issue and sell its bonds, which
9 shall bear interest not to exceed six per cent. per annum, interest
10 payable annually, by which to procure funds for such purpose,
11 and for said purpose the city may issue and sell its bonds to an
12 amount equal to two and one-half per centum on the taxable
13 property therein in addition to the aggregate of its debts for all
14 other purposes, and of every kind whatsoever; *provided*, that the
15 total indebtedness of said city for all purposes shall not exceed
16 five per centum of the total value of all taxable property therein.

17 But said city shall not make such issue and sale of bonds
18 without at the same time providing for the collection of a direct
19 annual tax sufficient to pay annually the interest on such debt and
20 the principal thereof within and not exceeding thirty years, and
21 for the purpose of aiding in the payment of any bonds issued un-
22 der the provisions of this act, to enable the city to lease, own, op-
23 erate and maintain a water works and system, the board of af-
24 fairs of the city are hereby authorized to lay a levy of not exceed-
25 ing ten cents on the one hundred dollars valuation of all taxable
26 property in the city, which said levy may be in addition to the ag-
27 gregate of all other levies authorized by law; and any revenue de-
28 rived from said water works over and above the expense of operat-

29 ing and maintaining the same, shall be applied to the payment
30 of the bonds issued therefor.

Sec. 89. The cost of any improvement contemplated in this
2 act and for which assessments may be made, shall include the cost
3 and expenses of making the assessments, the expenses of the pre-
4 liminary and other surveys, and of printing and publishing all
5 notices required to be published, and serving the notices on prop-
6 erty owners, and the cost of construction.

7 Proceedings with respect to improvements shall be liberally
8 construed by the board of affairs and the courts, to secure a speedy
9 completion of the work at a reasonable cost and the speedy col-
10 lection of the assessments after the time has elapsed for their
11 payments, and merely immaterial objections in such cases shall be
12 disregarded.

Sec. 90. In setting forth the lots and lands abutting upon
2 the improvement, it shall be sufficient to describe them as the lots
3 and lands bounding and abutting upon said improvement be-
4 tween and including the termini of said improvement, or by
5 the description by which they are described on the land books of
6 the county in which said lots are situate; and this rule of descrip-
7 tion shall apply in all proceedings in which lots or lands are to be
8 charged with a special assessment.

Sec. 91. When work shall have been completed on any ave-
2 nue, street, road or alley, or part thereof, as provided in section
3 seventy-four or section eighty-one, or the construction of any sew-
4 er or other work shall have been completed on any avenue, street,
5 road or alley, or part thereof, or elsewhere, as provided in section
6 eight-six, and said assessments thereagainst shall have been cal-
7 culated as provided in this act, the board of affairs shall give no-
8 tice, by publication at least once a week for two successive weeks
9 in two newspapers of opposite politics, published in said city, or
10 in one newspaper, if two such papers be not published in said city,
11 that an assessment under this act is about to be made against the
12 property so assessed and the owners thereof, mentioning the kind
13 of work and the location thereof, and the owners of said property
14 shall have a right to appear before said board, either in person or
15 by attorney or agent, at any regular or special meeting called for
16 that purpose within two weeks of the first publication thereof,
17 and move the board to correct any apportionment of the assess-
18 ment excessive or improperly made and the board shall have the
19 power to make any such corrections before it enters the same, as

20 corrected, upon the records. If the publication in the newspapers
21 aforesaid cannot be had at reasonable rates, the notice may be
22 given in some other manner designated of record by the board.
23 The fact that said assessment shall have been entered of record,
24 as provided by this act, shall be *prima facie* proof that the no-
25 tice mentioned herein was given as prescribed in this section.

Sec. 92. The board of affairs shall hear and determine all
2 charges against any officer or person holding a position in the po-
3 lice department and the fire department, after ten days' written
4 notice to the accused of the charges preferred against him, and the
5 time and place of a hearing on said charges, and an opportunity to
6 the accused to have been heard, at such meeting, in his defense.
7 After thus hearing said charges the board may, by a vote of three
8 of its members, sustain the same, and by like vote may reprimand
9 or suspend or dismiss said accused person from the service of the
10 city. Upon the making of such charges, and pending the trial there-
11 on, the board, by a majority vote, or the mayor, if in his judgment
12 the provocation is sufficient, may suspend the accused officer, and
13 if he be hereafter found guilty on the charge preferred, and by
14 reason thereof dismissed, or suspended, he shall draw no salary
15 during the period of either of his suspensions.

Code of Laws, Etc.

Sec. 93. The board of affairs may adopt by ordinance, a
2 code of laws and ordinances, which when adopted shall be printed
3 in book form, or it may be adopted as a whole after it is printed,
4 and said code shall be the law and ordinances of said city, and
5 shall be received as such in all the courts of this state and the
6 laws, ordinances, franchises and rules when printed therein shall
7 be *prima facie* proof of their correctness.

Non-Partisan Administration.

Sec. 94. The object and aim of this act is to procure an hon-
2 est and efficient administration of the affairs of the city of Hinton,
3 free from partisan distinction or control; and the municipal au-
4 thorities of the city and courts of the state shall construe this act
5 with that aim in view.

Service of Notice.

Sec. 95. Whenever any notice is required to be given, or any
2 summons, warrant or other process is required to be served or
3 otherwise executed, under the provisions of this act, it shall be suffi-

4 cient, if such notice, summons, warrant or other process be executed
5 by an officer of the police department of the city in the same way
6 or manner in which the laws of the state prescribe for executing
7 summons and subpoenas by state officers, unless otherwise provided
8 by this act.

Board of Affairs Successors to Council.

Sec. 96. The board of affairs (together with the common
2 council) provided for in this act, and their successors in office, shall
3 be held and deemed, in law and in fact, the successors of the mayor
4 and common council of the city of Hinton.

Sec. 97. The mayor and council, and all appointive officers,
2 of the city of Hinton, as heretofore constituted, shall continue in
3 their respective offices until their successors shall have been elected
4 and qualified and entered on the discharge of their duties as pro-
5 vided by this act, and shall exercise their rights, powers and du-
6 ties over the territory of the city of Hinton, as heretofore consti-
7 tuted, as prescribed by chapter one hundred and four of the acts of
8 one thousand eight hundred and ninety-seven, as amended and
9 re-enacted by chapter one hundred and twenty-one of the acts
10 of one thousand nine hundred and one, of the legislature of
11 West Virginia.

Sec. 98. The common council of the city of Hinton as consti-
2 tuted before this act becomes effective, shall within ten days after
3 this act takes effect, call a special election to be held on the first
4 Tuesday in April, one thousand nine hundred and fifteen, for the
5 election of the commissioners and members of the common coun-
6 cil of the city of Hinton, as herein provided, and said nominations
7 shall be made and said special election shall be conducted and held
8 in the manner herein set forth and provided for regular elections
9 by the council then in office in said city of Hinton, and in all man-
10 ner according to the provisions of the laws of the state relating to
11 such matters and not in conflict with the provisions of this act.

12 And the said common council of the said city of Hinton as con-
13 stituted before this act becomes effective is hereby made the can-
14 vassing board and before which the election returns of said first
15 election under this act shall be canvassed, and the result thereof
16 declared in the manner prescribed by this act and by state laws
17 for like purposes, relating to municipal elections, and it shall be
18 the imperative duty of said council to declare the results of said
19 election within the time now provided by law, and by the charter

20 and provisions of the city ordinance of the the city of Hinton, and
21 shall designate the commissioners of the several departments as
22 herein provided for, and in the manner as herein provided. And
23 thereafter, the board of affairs shall be *ex-officio* the board of can-
24 vassers, and as such perform said duty.

25 The members of the board of affairs and members of the com-
26 mon council elected at the first election held under the provisions
27 of section ninety-eight, shall begin their term of office on the first
28 day of May, one thousand nine hundred and fifteen, and they shall
29 hold their respective offices until the thirty-first day of December,
30 one thousand nine hundred and sixteen, or until their successors
30-a are elected and qualified.

31 If at any time a commissioner is a candidate for re-election to
32 said office, the common council may appoint some person of the
33 same political party to act in his stead on the canvassing board, or
34 if two or more commissioners are candidates for re-election, the
35 common council may appoint a person for each candidate for re-
36 election to act in his stead on the canvassing board, and the person
37 or persons so appointed shall, with the other members of the board,
38 if any, who are not candidates for re-election, canvass the returns
39 of said election and make declaration of the result thereof; and in
40 that event each commissioner who is a candidate for re-election,
41 shall not have anything to do with the canvass of said election
42 returns or the making of the declaration of the result thereof.

43 The city clerk, acting under state laws in so far as they are not
44 in conflict with this act, shall preform such duties relating to all
45 municipal elections held under the municipal authorities of said
46 city as the clerk of the county court of Summers county performs,
47 under state laws, in relation to state, county and district elections
48 in said county and he shall likewise be the custodian of all ballots,
49 tally sheets, etc., pertaining to all municipal elections.

Existing Ordinances and Records.

Sec. 99. All the valid ordinances enacted by and now in force
2 in the city of Hinton as heretofore constituted, shall remain in full
3 force and effect within said territory, except when the same are
4 in conflict or inconsistent with this act, until the members of the
5 board of affairs, as provided for under this act, shall have been
6 elected at the first election hereunder, and a majority thereof shall
7 have qualified, and upon the election and qualification of a ma-
8 jority of said commissioners said ordinances shall *ipso facto* extend

9 to and over the whole of the city of Hinton, as embraced in section
10 two of this act, and shall, on and from said time, be and remain in
11 full force and effect in the city of Hinton as constituted by this
12 act, or until repealed or amended by said board of affairs.

Sec. 100. The city clerk, except as may be otherwise pre-
2 scribed by the board of affairs, shall be the custodian of all the
3 records and papers pertaining to the city of Hinton, and said rec-
4 ords and papers shall be kept by him at his office and open to pub-
5 lic inspection.

Sec. 101. All other acts and parts of acts coming within the
2 purview of this act and inconsistent herewith are hereby repealed.

Senate Bill No. 310

AN ACT to incorporate the city of Cameron, in the county of Mar-
shall, state of West Virginia; fixing its corporate limits, and pre-
scribing and defining the powers and duties of said city.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of
2 Marshall as are within the bounds prescribed by section two of
3 this act, now and hereafter residing within said bounds, shall be
4 and they are hereby constituted a body politic and corporate, by
5 and under the name of "the city of Cameron," and as such and in
6 that name, shall have perpetual succession and a common seal and
7 may sue and be sued, contract and be contracted with, purchase,
8 lease, hold and use real and personal property for municipal pur-
9 poses, and generally, shall have all the rights, powers and fran-
10 chises belonging or appertaining to municipal corporations in the
11 state of West Virginia.

Boundaries.

Sec. 2. The boundary of said city shall be as follows:

2 Beginning at the northeast corner of the county bridge over
3 Grave creek southwest of site of Baltimore & Ohio railroad shops,
4 thence down said creek N. 87° 35' W. 160 feet to a stake; thence
5 continuing down said creek N. 41° W. 242 feet to a stake; thence
6 leaving the creek and continuing up a drain N. 23° 25' E. 1200 feet
7 to a stake, N. 45° W. 43 feet from a sycamore; thence leaving
8 said drain, continuing through the lands of Geo. Gump, West Lawn
9 Addition, and E. Hall S. 66° 20' E. 2200 feet to a stake, an orig-

10 inal corner to the present corporation line of the town of Camer-
11 on; thence following the said present corporation line the following
12 ten courses and distances, S. 85° E. 240 feet; N. 5° E. 985 feet;
13 N. 3° W. 650 feet; N. 1430 E. 688 feet; thence crossing run north
14 of Patterson Glass Company's plant S. 39° 10' E. 249 feet; S. 10°
15 15' W. 431 feet; S. 1° 45' E. 264 feet; S. 4° 15' W. 379 feet; S.
16 17° E 360 feet; S. 24° 30' E. 41 feet to corner of John Crawford's
17 land; thence, leaving the present corporation line, and continuing
18 with line of lands of John Crawford and Lizzie McConaughy N.
19 72° 50' E. 1712 feet to an iron pin, corner to lands of Lizzie
20 McConaughy and John Crawford; thence through the lands of
21 John Crawford and Geo. N. Yoho, and passing between said
22 Yoho's house and barn, N. 83° 50' E. 1459 feet to stake in Yoho's
23 line 13 feet South of A. McCracken and Allen Kinsey's lot; thence
24 with Geo. N. Yoho's line, N. 23° 15' E. 492 feet to a stake, cor-
25 ner to lands of Geo. N. Yoho; thence with his land N. 5° 20' E.
26 548 feet to a post in Yoho's line and a corner to lands of Jerry
27 A. Fitzgerald and A. McCracken; thence leaving Yoho's line and
28 running with lines of Fitzgerald and McCracken and Simmons,
29 S. 89° 15' E. crossing the Cameron and Clouston Pike 600 feet
30 to a stake on a flat in field of S. D. McConaughy; thence through
31 the lands of S. D. McConaughy and D. W. McConaughy, S. 19°
32 W. 2660 feet to a locust stump; thence continuing through lands
33 of D. W. McConaughy and J. M. Nichols, S. 83° 50' E. 2324
34 feet to a locust tree; thence S. 69° E. 1200 feet to the most north-
35 erly of three large white oaks on the east side of a drain; thence
36 S. 17° 30' W. 710 feet to the 28 mile post on the Baltimore & Ohio
37 railroad; thence continuing through the lands of L. L. Howard.
38 S. B. Dallison and J. A. Hicks' heirs S. 87° 20' W. 2700 feet to a
39 locust tree; thence S. 16° 45' E. 473 feet to a locust tree in J. A.
40 Hicks' heirs and S. B. Dallison line; thence S. 47° 15' E. 520
41 feet to a stone in old quarry on a point; thence S. 57° 5' E. 1248
42 feet to a stake 175 feet east of a drain; thence S. 42° 30' W. pass-
43 ing 30 feet east of residence of Nancy Barnett, crossing Ramp
44 Hollow 600 feet to a stake in Henry Wendt's field, thence con-
45 tinuing through lands of said Wendt and J. C. Reid, N. 66° 50'
46 W. 1709 feet to a corner of J. C. Reid and Dr. W. V. Teagarden;
47 thence through said Teagarden's lands, N. 37° W. 560 feet to a
48 dead white oak in Teagarden's line; thence N. 78° W. 1543 feet
49 to a locust tree; thence S. 73° W. 816 feet to a white oak on the
50 west side of drain in W. Chambers' lot; thence through the lands

51 of said Chambers and Harry Moose, passing between barn and
52 house of said Harry Moose, N. 73° W. 1280 feet to a stake; thence
53 through the lands of Harry Moose, Eljer Company, Mrs. Ander-
54 son, G. W. McCracken and David Gump, N. 62° W. 1790 feet to
55 a stake at top of bank in David Gump's field; thence N. 29° 15'
56 W. 951 feet to the beginning, containing, approximately, 50 acres,
57 according to survey made by R. C. Yoho, county surveyor, Janu-
58 ary fifth and sixth, one thousand nine hundred and fifteen.

Officers.

Sec. 3. The officers of said city shall be a mayor, clerk, chief
2 of police, and five councilmen. The clerk shall be *ex-officio* asses-
3 sor, and the chief of police shall be *ex-officio* collector thereof.
4 The said officers shall be elected by the qualified voters of said
5 city. The mayor, clerk, and five councilmen shall constitute the
6 common council of said city, which common council may, at its
7 discretion, appoint a street commissioner, superintendent of water
8 works, city solicitor and such other officers as may be deemed nec-
9 essary from time to time, and fix the term, duties and compensa-
10 tion thereof. No person shall be eligible to any elective office in
11 said city unless he is a qualified voter thereof, nor unless he has
12 resided therein for at least one year next preceding his election,
13 nor who shall have not been assessed for taxation with real estate
14 or personal property of the value of at least one hundred dollars.

Sec. 4. The municipal authorities of said city shall consist
2 of the mayor, clerk and five councilmen, who, together, shall con-
3 stitute a common council as herein before set out; and all the
4 corporate powers of said corporation shall be exercised by said
5 council, or under its direction, except where otherwise provided
6 herein.

Act to Take Effect, When; Elections; Certain Powers Granted.

Sec. 4-a. This act shall take effect on the first Thursday in
2 January, one thousand nine hundred and sixteen, at which time
3 the first election for city officers shall be held. Said election shall
4 be held and conducted, and the results thereof be ascertained, re-
5 turned and determined, under such rules and regulations as may
6 be prescribed by the council of the town of Cameron, the same be-
7 ing consistent with the general laws of the state governing muni-
8 cipal elections, and shall conform as nearly as may be thereto; but
9 the proclamation calling said election, shall, in addition to the
10 usual matters in such proclamations contained, call attention to

11 this act, and state fully the boundaries of the city of Cameron
12 herein before contained. On the said last named day, there shall
13 be elected a mayor, chief of police and five councilmen, who
14 shall be elected for a term of two years beginning on the first day
15 of February next succeeding their election.

Sec. 5. Elections shall be held thereafter biennially, on the
2 first Thursday in January; said elections shall be held and con-
3 ducted and the results thereof be ascertained and returned, under
4 such rules and regulations as may be prescribed by the common
5 council of the city of Cameron. the same being consistent with
6 the general laws of this state governing district elections, and shall
7 conform as nearly as may be thereto.

Sec. 6. During the interim between the time when this act
2 shall take effect, and the first day of February following, the pres-
3 ent officers of the town of Cameron shall have and exercise over
4 all of the territory of the city of Cameron, the same authority and
5 jurisdiction herein given to the officers of the said city; *provided,*
6 *further,* that if the officers of the city of Cameron, elected at the
7 first election herein mentioned, shall not have then qualified as
8 hereinafter provided, the said officers of the town of Cameron
9 shall continue to exercise their said functions till all legal require-
10 ments for such officers are fulfilled.

Terms of Officers.

Sec. 7. The term of office of the mayor, clerk, chief of police
2 and councilmen shall begin on the first day of February, next suc-
3 ceeding their election and shall continue two years and until their
4 successors shall have been elected and qualified. The appointive
5 officers herein mentioned shall hold their offices during the pleas-
6 ure of the council. Any former incumbent shall be ineligible for
7 reappointment unless he shall have settled up the business of his
8 former term or terms as far as possible at the time such re-appoint-
9 ment is made.

Sec. 8. Every person elected or appointed to any office in
2 said city, shall, within fifteen days after his election or appoint-
3 ment, and before entering upon the discharge of the duties of said
4 office, take and subscribe to the oath of the office prescribed by
5 law for officers generally, which oath may be administered by the
6 mayor or clerk of said city, or before any person authorized by
7 laws to administer oaths; and said oaths, together with the certifi-

8 cate of the person administering the same, shall be filed with the
9 clerk of said city.

Council.

Sec. 9. The council of said city shall have the right to fix a
2 compensation for the members thereof, which compensation, how-
3 ever, shall not exceed twenty-five dollars per year to each mem-
4 ber.

5 The council shall prescribe the powers and define the duties
6 of all officers by it appointed, except so far as the same are by this
7 act defined; shall fix their compensation, and may require and
8 take from them respectively, bonds payable to the city in its cor-
9 porate name with such sureties and in such penalties as may be
10 deemed proper, conditioned for the faithful performance of their
11 duties.

Sec. 10. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to receive
3 funds, assets or property belonging to the city, or have charge of
4 the same, such bonds, obligations or other writings as may be
5 deemed necessary and proper to secure the faithful performance of
6 their several duties. All bonds, obligations or other writings taken
7 in pursuance of any of the provisions of this act shall be made pay-
8 able to "the city of Cameron," with such sureties and in such penal-
9 ties as may be deemed proper, conditioned for the faithful perform-
10 ance of their duties and for the accounting for and paying over,
11 as required by law, all moneys coming into their hands by virtue
12 of their offices, and the respective persons and their heirs, execu-
13 tors and assigns bound thereby, shall be subject to the same pro-
14 ceedings on said bonds, obligations and other writings, for enforce-
15 ing the conditions of the terms thereof, by motion or otherwise,
16 before any court of competent jurisdiction held in and for the
17 county of Marshall, that collectors of county levies and other sure-
18 ties are or shall be subject to on their bonds for enforcing the pay-
19 ment of the county levies.

Sec. 11. The council shall have the authority to remove
2 from office any elected officer of the city for misconduct or neglect
3 of duty, by affirmative vote of not less than four of the mem-
4 bers of the council, but only after reasonable notice to such officer,
5 and a hearing of the charges preferred. Any vacancy in office,
6 unless created under the provisions of section fifty-three of this
7 act may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and times of holding its regular meetings; may provide for special adjourned meetings; shall have power to compel the attendance of its members; and may prescribe rules and regulations not inconsistent herewith, for the transaction of business and for its own guidance and government. The council shall be presided over at its meetings by the mayor or in his absence by the clerk, or in the absence of both the mayor and clerk, then one of the councilmen selected by a majority of the council present, who may vote on any question as member of the council. The mayor shall have a vote only in case of a tie and in no case shall the presiding officer have more than one vote. A majority of the council shall be necessary to constitute a quorum for the transaction of business. No member of the council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than as a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a well bound book to be called the "Minute Book" an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the "ordinance book" accurate copies of all the ordinances adopted by the council, or by the electors of said city, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers of the city and all papers for the council shall be endorsed, filed and securely kept by the clerk, except the bond of the clerk, which shall be filed with the mayor. All printed copies of such ordinances purporting to be published under authority of the council, and transcripts of such ordinances, acts, orders and resolutions, certified by the clerk under the seal of the city, shall be deemed *prima facie* correct, when sought to be used as evidence in any court or before any justice.

Sec. 14. At each meeting of the council, the proceedings of the last meeting shall be read, and if erroneous, corrected and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or measure for the expenditure of money other than to defray the current and incidental expenses of the city, shall be deemed passed or adopted unless it shall have been fully read at two consecutive

5 meetings of the council, and shall have received a majority of the
6 votes of the members present, when it shall stand and be declared
7 adopted and not otherwise. *Provided, further,* that no such ordi-
8 nance, by-law, resolution or measure shall become effective until
9 all the conditions of section fifty-five of this act with relation
10 thereto, shall have been fully complied with.

Sec. 16. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair the
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains and
4 gutters therein for the use of the citizens or of the public, and to
5 improve and light the same, and to keep the same free from ob-
6 struction of very kind; to regulate the width of the pavements and
7 sidewalks, on the streets and alleys, and to order the pavements
8 sidewalks, footways, drains and gutters to be kept in good order,
9 free and clear, by the owners or occupants of the real property
10 next adjacent thereto; to prevent injury or annoyance to the pub-
11 lic or to individuals from anything dangerous, offensive or un-
12 wholesome; to prohibit or regulate slaughter-houses and soap fac-
13 tories within the city limits, or the exercise of any unhealthy or
14 offensive business, trade or employment; to abate all nuisances
15 within the city limits, or to require and compel the abatement or
16 removal thereof, by or at the expense of the person causing the
17 same, or at the expense of the owner or occupant of the ground
18 on which they are placed or found; to cause to be filled up, raised
19 or drained by or at the expense of the owner, any city lot or tract
20 of land covered or subjected to be covered by stagnant water; to
21 prevent horses, hogs, dogs, cattle, sheep, or other animals and fowls
22 of all kinds from going or being at large in such city, and as one
23 means of prevention, to provide for impounding and confining such
24 animals and fowls, and upon failure to re-claim, for the sale there-
25 of; to protect places of divine worship and to preserve order in
26 and about the premises where and when such worship is held; to
27 regulate the keeping of gunpowder and other inflammable or dan-
28 gerous substances; to provide for, construct and maintain an ade-
29 quate sewerage system; to provide and regulate the building of
30 houses or other structures, and for the making and maintaining of
31 division fences by the owners of adjoining premises, and for the
32 proper drainage of city lots or other parcels of land, by or at the
33 expense of the owner or occupant thereof; to provide against dam-
34 age or danger by fire; to punish for assaults and batteries; to ar-
35 rest, convict and punish any person for gambling or keeping gam-

36 bling tables, commonly called A, B, C or E, O, table or faro bank
37 or keno table, or table of like kind, under any denomination,
38 whether the game or table be played with cards, dice or otherwise,
39 or shall be a partner, or concerned in interest, in the keeping or
40 exhibiting such table or bank, or keeping or maintaining any gam-
41 ing house or place, or betting or gambling for money or anything
42 of value; to suppress houses of ill-fame and to arrest and punish
43 persons loitering in, or visiting them, or loitering upon the
44 streets; to prevent lewd and lascivious conduct; the sale of indecent
45 pictures or other representations; the desecration of the Sabbath day
46 profane swearing; the illegal manufacturing, keeping and offering
47 for sale of all intoxicating liquors, drinks, mixtures and prepara-
48 tions, beer, ale, wine, or drinks of like nature; to protect the per-
49 sons of those residing or being within said city; to appoint, when
50 necessary or advisable, a police force, permanent or temporary; to
51 assist the chief of police in the discharge of his duties; to build or
52 purchase, or lease and to use, a suitable place within or near said
53 city for the safe keeping or punishment of persons charged with
54 or convicted of the violation of ordinances; to provide for the em-
55 ployment of persons convicted of the violation of the ordinances
56 or who may be committed in default of the payment of fines, pen-
57 alties or costs, and who are otherwise unable to discharge the same,
58 by putting them to work for the benefit of the city, and to use such
59 means to prevent their escape while at work, as they may deem
60 expedient; to erect, or authorize or prohibit the erection of gas
61 works, electric light works or water works within the city limits;
62 to prevent injury to such works, or the pollution of any gas or wa-
63 ter used or intended to be used by the public or by individuals, and
64 to do all things necessary to adequately supply said city and the
65 inhabitants thereof with pure, healthy and wholesome water; to
66 use, generate, distribute, sell and control electricity and gas for
67 heat, light and power and to furnish light for the streets, houses,
68 buildings, stores, and other places in and about said city; to pro-
69 vide a sewerage system for said city; to provide for and regulate
70 the weighing and measuring of hay, coal, lumber and other articles
71 sold or kept or offered for sale, within said city; to regulate the
72 running and speed of engines, cars and motor vehicles within the
73 said city; to organize one or more fire companies and provide nec-
74 essary apparatus, tools, implements, engines or any of them for
75 their use, and in their discretion to organize a paid fire depart-
76 ment; to make regulations with respect to the erection and loca-

77 tion of all pipes, conduits, and telephone, telegraph, electric light
78 or other poles within said city, and the extension of any wires,
79 lines and poles by any individuals or corporations; to create by
80 ordinances such committees or boards, and delegate such authority
81 thereto as may be deemed necessary or advisable; to provide for
82 the annual assessment of the taxable property therein, including
85 ses, and generally to take such measures as may be deemed neces-
83 dogs kept in said city, and to provide a revenue for the city for
84 municipal purposes, and to appropriate such revenue to its expen-
86 sary or advisable to protect the property, public and private,
87 within the city; to preserve and promote the health, safety, com-
88 fort and well being of the inhabitants thereof.

89 The council of said city shall have power and authority to
90 control and regulate the construction and repairs of all houses
90-a and other buildings within the said city; to provide for the grant-
91 ing of building permits; to cause the removal of unsafe walls
92 or buildings; and may prohibit the erection of and such
93 building, or of any addition to any building unless the
94 outer walls thereof be made of brick and mortar or other fire
95 proof material; and to provide for the removal of any building or
96 addition which shall have been erected contrary to such prohibi-
✓ 97 tion, at the expense of the owner or owners thereof.

98 The said council of said city shall have any and all additional
99 power and authority granted to cities, towns and villages by sec-
100 tion twenty-eight of chapter forty-seven of the code as amended
101 by chapter fifty-three of the acts of one thousand nine hundred
102 and five, and all restrictions, powers and duties of municipal cor-
103 porations contained in the code, or in any general statute here-
104 after enacted, shall apply to the said city of Cameron unless ex-
105 pressly otherwise specified in this act.

Franchises.

Sec. 17. Franchises may be granted by the city council to
2 persons or corporations allowing such occupancy of portions of the
3 streets and alleys as may be necessary for works of public utility
4 and service, but no such franchise shall hereafter be granted ex-
5 cept under the following restrictions and conditions: no ordi-
6 nance shall be passed, granting any franchise for the use of any
7 of the streets or alleys of the city for any of the purposes above
8 named, until the same shall have been filed with the clerk at
9 least thirty days prior to the time when it is to be acted upon by

10 the council, and notice of such application, stating the object of
11 such franchise, and when the same will be considered by the coun-
12 cil, shall have been given thirty days by publication in some
13 newspapers of general circulation published in the city or of
14 general circulation in Marshall county.

15 Nor shall such franchises be granted within thirty days after
16 the application has been filed, nor until an opportunity has been
17 given any citizen or corporation interested in the granting or re-
18 fusing of said franchise to be heard.

19 Nor shall any franchise be hereafter granted by council for
20 a longer period than fifty years; *provided*, that the council shall
21 have the power to renew any such franchise for the term of fifty
22 years when the same shall have expired. No franchise hereafter
23 granted for a longer term than fifty years shall be of any force
24 or validity. No grant of any such franchise shall be made without
25 at the time of making it providing that the grantee, its succes-
26 sors or assigns, shall indemnify the city against all damages caused
27 by the construction of such works. Any corporation or person
28 to whom a franchise has been heretofore or may hereafter be
29 granted, or their successors or assigns, who shall fail to comply
30 with the conditions of the ordinance granting such franchise
31 within one year from the time said conditions are directed to
32 be performed, shall, by such failure, forfeit the privileges so
33 granted, and said franchise shall be and the same become null
34 and void. *Provided, further*, that any franchise so adopted shall
35 not become effective until all the conditions of section 55 of this
36 act with relation thereto shall have been fully complied with.

Sec. 18. To carry into effect these enumerated powers and
2 all others by this act or by general law conferred, or which may
3 hereafter be conferred upon the said city or its council or any of
4 its officers, the said council shall have and possess full authority
5 to make, pass and adopt all needful ordinances, by-laws, orders
6 and resolutions not repugnant to the constitution and laws of the
7 United States or of this state; and to enforce any or all of such
8 ordinances, by-laws, orders or resolutions by prescribing for a
9 violation thereof, fines and penalties and imprisonment in either
10 the county jail of Marshall county, or the city prison if there be
11 one; but no fine shall exceed one hundred dollars, and no term
12 of imprisonment shall exceed ninety days. Such fines and penal-
13 ties shall be imposed and recovered, and such imprisonment in-
14 flicted and enforced, by and under the judgment of the mayor of

15 said city, or in case of his absence or inability to act, of the clerk of
16 said city, or in case of absence or inability to act of both,
17 by one of the councilmen, appointed for that purpose by the coun-
18 cil.

Mayor; Duties.

Sec. 19. The mayor shall be the chief executive officer of
2 the city and shall see that the orders, by-laws, ordinances and
3 regulations of the council thereof are faithfully executed; he
4 shall be *ex-officio* a justice and conservator of the peace within the
5 city and shall within the same have, possess and may exercise,
6 all the powers and perform all the duties whether in civil or
7 criminal proceedings, vested by law in a justice of the peace. Any
8 summons, warrants or other process, issued by him, may be exe-
9 cuted at any place within the county of Marshall; he shall have
10 power during the recess of the regular meetings of council to ap-
11 point special police officers when he shall deem it necessary, and
12 it shall be his duty to see that peace and good order of the city are
13 preserved, and that persons and property therein are protected;
14 and to this end he may arrest and detain, or cause the arrest
15 and detention, of all riotous and disorderly persons before tak-
16 ing other proceedings in the case; he shall from time to time
17 recommend to the council such measures as he may deem needful
18 for the welfare of the city; he shall not receive any money due or
19 belonging to the state or corporation or to individuals, unless and
20 until he shall have given the bond and security required of a jus-
21 tice of the peace by chapter fifty of the code of West Virginia;
22 and all the provisions of said chapter relating to moneys received
23 by justices shall apply to moneys received by him in like cases.

24 The mayor shall receive a salary of not less than fifty nor
25 more than three hundred dollars per annum; such salary shall be
26 in lieu of the fees which would otherwise accrue to him in proceed-
27 ings for the enforcement of ordinances, but all such fees shall be
28 collected when practicable, and accounted for to the city, and he
29 may tax such costs against any persons or corporation found
30 guilty of the violation of any ordinance of the city, as are pro-
31 vided to be taxed and received by justices of said county in crimi-
32 nal cases.

Sec. 20. The process in proceedings to enforce any ordi-
2 nances prescribing a fine or imprisonment, or a fine and imprison-
3 ment, for the violation thereof, shall be a summons in the name
4 of the city of Cameron as plaintiff, directed to the chief of police,

5 to one of the regular police officers of the city, or to any constable
6 of the district within which the said city is located, requiring him
7 to summons the person accused of such violation, and who shall
8 thereafter be designated as defendant, to appear before the mayor
9 at the time and place therein named to make answer to such ac-
10 cusation and be dealt with according to law; such summons shall
11 contain such statement of the facts alleged as will inform such
12 person of the general nature of the offense against the city of
13 which he stands charged, and except in cases of arrest upon view,
14 shall be issued only upon the complaint, on oath, of some cred-
15 ible person. But the mayor for good causes appearing, by en-
16 dorsement of the summons, may order the person so accused to
17 be forthwith apprehended and brought before him for a hearing
18 of the charge. The clerk of said city, as well as the mayor, shall
19 have authority to receive any complaint in writing of the viola-
20 tion of any ordinance, and to sign and issue the proper summons
21 based upon such complaint. The mayor shall have, possess and
22 may exercise the power and authority belonging to a justice under
23 sections two hundred and twenty-four and two hundred and twen-
24 ty-five of chapter fifty of the code of West Virginia, in summoning
25 and enforcing the attendance and examination of witnesses, in
26 punishing for contempt, in granting continuances, and in secur-
27 ing and enforcing the further attendance of the accused with a
28 view of a trial or hearing. If any recognizance be taken for such
29 further attendance, and is forfeited, the mayor may record the
30 default, and an action be maintained in the name of the city, be-
31 fore the mayor, or any justice having jurisdiction, or in the cir-
32 cuit court of Marshall county against the accused and his sureties,
33 if any, to recover the penalty thereof.

Sec. 21. The mayor shall have the power to issue an execu-
2 tion for any fine and costs assessed or imposed by him, for the vio-
3 lation of any ordinance, or he may at the time of rendering judg-
4 ment therefor, or at any time thereafter and before satisfaction
5 of such judgment, by his order in writing, require the immediate
6 payment thereof; and in default of such payment he may cause
7 the person so in default to be apprehended and brought before
8 him, and commit him to the jail of Marshall county or in his
9 discretion to the city prison, until the fine and costs are fully
10 paid; but such imprisonment shall not exceed ninety days.

Jailer; Who Shall Act.

Sec. 22. The chief of police shall be *ex-officio* jailer of said

2 city, and shall have custody of all persons confined in the jail of
3 said city. He shall provide for the comfort and safety of all such
4 persons; and from time to time, as required by council, shall report
5 the expense of maintaining said jail. In the absence of the chief
6 of police, his several duties as jailer may be performed by the
7 mayor, clerk or other police officer of said city.

Mayor's Docket.

Sec. 23. A book well bound and indexed, to be denominated the "docket" shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including a statement of complaint, the summons, the return, the fact of appearance, or non-appearance, the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the mayor or other person acting in his stead; and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Appeal.

Sec. 24. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor of imprisonment, or for a fine of more than ten dollars, an appeal shall lie at the instance of the person against whom such judgment is rendered to the circuit court of Marshall county. Such appeal shall not be granted by the mayor unless, within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, in a penalty double the amount of fine and costs, with condition that the person appealing will appear before the said court on the first day of the next term thereof, to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court, and will perform and satisfy any judgment which may be rendered against him by the circuit court on appeal. The 14-a provision of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizance in criminal cases, shall be applicable to the recognizance contemplated by this section, except where herein otherwise provided; but any money recovered thereon or by virtue thereof shall inure to the said city.

Sec. 25. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any, the summons, a transcript of the record including the judg-
4 ment, the recognizance, and any other papers belonging to the
5 case; and such clerk shall receive and file the same, and place the
6 case upon the trial docket of the next succeeding term of said court,
7 and said court shall proceed to try the same in its order.

Sec. 26. If the appellant be found guilty of a violation of
2 the ordinance in question, whether upon the verdict of a jury
3 or otherwise, the court shall ascertain by its judgment the fine or
4 imprisonment or the fine and imprisonment to be paid or suffered
5 by such defendant, having regard to the punishment prescribed
6 by such ordinance, and shall include in any such judgment the
7 costs incurred by said city, as well as the proceedings before the
8 mayor as those in court, including a fee to the attorney for the
9 city of five dollars, and the fees, if any, of the jailer or keeper
10 of the city prison; and the proceedings to enforce the collection
11 of any such fine and costs, as may be provided in sections ten,
12 eleven and twelve of chapter thirty-six of the code of West Vir-
13 ginia, except that the writ mentioned in the tenth section may be
14 issued by the clerk upon order of the mayor of the city and the
15 notice contemplated by the eleventh section shall be given to such
16 officer.

Sec. 27. From all judgments by the mayor in cases other
2 than for violation of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Sec. 28. It shall be the duty of the clerk to keep a journal
2 of the proceedings of the council and have charge of and preserve
3 the records, papers, contracts and other documents belonging to
4 the city; it shall be his duty to attend the sessions of the police
5 court and keep an accurate record of its proceedings, and all judg-
6 ments shall be entered by him within twenty-four hours after the
7 same are rendered; he shall, in case of sickness or disability of
8 the mayor to act, or in case of his absence from the city, or during
9 any vacancy in the office of the mayor, perform the duties of mayor,
10 and shall be vested with all the powers necessary for the perform-
11 ance of such duties, including the right and duty to collect fines,
12 forfeitures, and licenses due the said city and account for the same
13 to the treasurer thereof; he shall also perform such other duties
14 pertaining to the fiscal affairs of the city, or otherwise, as may be

15 required of him by this act or by council. All license taxes shall
16 be payable on the first day of July of each year, or at such time as
17 such license may be issued.

18 The officer whose duty it is to make out the land books for Mar-
19 shall county, shall, annually, at such compensation as agreed upon
20 with council, not later than the fifth day of August, furnish to the
21 clerk, showing in separate accounts, the aggregate value of all the
22 personal property and the aggregate value of all the real estate in
23 the city, as ascertained from the land and personal property books
24 of said county for the current year; upon receiving said statement
25 the clerk shall present the same to council at a meeting to be held
26 not later than the second Tuesday in August, for the purpose of de-
27 termining the rate of levy in said city for the current year; as soon
28 as the rate of levy shall have been fixed by council, the clerk shall
29 furnish the officer whose duty it is to make out the land and per-
30 sonal property books, a certified copy of the order of the council,
31 fixing the rate of tax, and such officer shall thereupon extend the
32 tax against the property situated in the city in the land and per-
33 sonal property books in separate columns in said book.

Sec. 29. The clerk shall, when the extended copies of the
2 assessor's books are completed and returned to the clerk of the
3 county court, have access to the same for the purpose of making out
4 tax bills of the taxes therein extended, and it shall be the duty of
5 the clerk, who shall be *ex-officio* assessor of said city, to make out
6 all tax tickets, and when the same have been examined, compared
7 and approved by the finance committee of the council and found
8 to be correct, they shall be turned over to the chief of police, who
9 is *ex-officio* collector, not later than the tenth day of September,
10 following the levy, whose receipt shall be returned to the council
11 and entered upon its record, and the chief of police shall be
12 charged therewith.

Sec. 30. The said clerk shall prepare bills for all license
2 taxes due said city, whenever the same shall become due and pay-
3 able, and turn said bills over to the chief of police for collection,
4 charging him therefor. The said chief of police shall proceed at
5 once to collect all such taxes on licenses, and account to the treas-
6 urer therefor, as required herein for other collections. The said
7 clerk shall keep his office at the office of the mayor, unless other-
8 wise ordered by council, and shall keep his office open for the trans-
9 action of business during such business hours as may be necessary
10 for the proper performance of his several duties. It shall be his

11 duty to prepare the annual financial statement of said city, and
12 when approved by the committee on finance, cause the same to be
13 published in some newspaper published in said city; and if there
14 be no newspaper so published, then in some newspaper published
15 in Marshall county, West Virginia.

16 The said clerk shall receive such compensation as may be fixed
17 by council from term to term, which shall not be less than one hun-
18 dred and twenty dollars, nor more than three hundred and sixty
19 dollars per annum.

Treasurer.

Sec. 31. The common council of said city, at its first meet-
2 ing for the term for which its members are elected, shall appoint
3 some bank or individual of said city, treasurer thereof for a term
4 of two years. Such treasurer shall receive and receipt for any
5 and all moneys paid to him by the collector, mayor, or other officer,
6 derived from any and all sources; keeping accurate account of all
7 moneys so received and from what sources. The funds so deposit-
8 ed with him, shall be disbursed only upon orders on the treasurer,
9 under direction of council, signed by the mayor and countersigned
10 by the clerk. The treasurer, once each month, shall report to
11 council, showing the receipts and disbursements of the funds of
12 the city, producing his books of accounts to the said council, or to
13 any committee of the same for inspection when so ordered by
14 council. The treasurer shall before entering upon the duties of
15 said office, execute the bond required in section ten of this act.

16 The personal pronouns "him" and "his" in this section,
17 shall be taken to refer to the said treasurer, whether an individual
18 or a bank.

Solicitor.

Sec. 32. The council may appoint a solicitor for said city,
2 who shall be a practicing attorney of Marshall county. It shall
3 be the duty of the solicitor to prepare when directed by council,
4 all ordinances for said city, to represent the said city in all mat-
5 ters and proceedings in any court in which the said city is inter-
6 ested, and to advise the said council on legal questions when re-
7 quested to do so. He shall receive as compensation for his services
8 such annual or special fees as may be agreed upon by said solicitor
9 and council.

Chief of Police.

Sec. 33. It shall be the duty of the chief of police to pre-
2 serve order and quiet in said city, and to see that all subordinate
3 police officers faithfully perform their official duties, and he may
4 for good cause appearing to him, for neglect of duty or insubordi-
5 nation, suspend any such officer from duty, and report his action
6 and reason therefor to the next regular meeting of the council
7 for action thereon; he shall make a list of all dogs within said city
8 liable to tax, collect the license tax thereon and pay the same to
9 the treasurer, as may be provided by ordinance of said city; he
10 shall be present in the police court whenever the same shall be
11 in session, and see that all its orders and requirements are
12 properly executed; he shall with the consent of the council en-
13 tered of record, but not otherwise, appoint one or more police-
14 men, as the council may determine; he shall, before entering up-
15 on the discharge of his duties, execute a bond conditioned for the
16 faithful performance by him of the duties of his office, and for
17 the accounting for and paying over, as required by law, all money
18 which may come into his hands by virtue of his office, with sure-
19 ties satisfactory to the council, in a penalty of not less than one
20 thousand dollars nor more than three thousand dollars, as the
21 council may prescribe.

22 Each policeman appointed as prescribed by this section, shall,
23 before entering upon the discharge of his duties, execute a bond,
24 conditioned for the faithful performance of the duties of his
25 office, and for the accounting for and paying over of all money
26 which may come into his hands by reason of his said office, with
27 sureties satisfactory to council, in a penalty of not less than one
28 hundred nor more than five thousand dollars, as council may
29 prescribe; *provided*, that special officers appointed or deputized
30 for temporary service, shall not be required to execute the bond
31 herein required.

Sec. 34. In case a violation of any ordinance of said city
2 is committed in the presence, or within view of the chief of police
3 or other police officer, the offender may be forthwith apprehended
4 and taken before the mayor, and a complaint under oath, stating
5 such violation, there lodged and filed; and thereupon such offender
6 may be tried and dealt with according to law, without summons.
7 The chief of police shall execute, within the county of Marshall,
8 when directed to him, any proper process issued by the mayor in
9 proceedings for the enforcement of ordinances; and shall collect

10 by levy of execution, or otherwise, and duly account for, all
11 fines assessed and costs imposed in such proceedings. He shall
12 also have all the rights and powers, within said city, in regard to
13 the arrest of persons, the collection of claims, and the execution
14 and return of process, that are or may be lawfully exercised by a
15 constable of a district within the same, and shall be entitled to the
16 same compensation therefor; and he and his sureties shall be
17 liable to all fines, penalties and forfeitures that a constable is
18 liable to, for any dereliction of duty in office, to be recovered in the
19 same manner, and in the same courts, that such fines, penalties
20 and forfeitures are recovered against constables.

Chief of Police; Ex-Officio Collector.

Sec. 35. When the tax bills for any year have been turned
2 over to the chief of police, as required by section twenty-nine, here-
3-4 of, the chief of police as *ex-officio* collector, shall give notice that
5 said tax bills are in his hands for collection, stating the penalty
6 for non-payment thereof and the time and place where the same
7 may be paid, which notice shall be given by publication in some
8 newspaper published in said city, or in Marshall county, should
9 there be none in said city, and by notices carefully posted in pub-
10 lic places therein; *provided, however*, that if there should be no
11 newspaper so published, the posting of said notices shall be suffi-
12 cient.

13 To all persons who shall pay their taxes in full before the first
14 day of December next succeeding said levy there shall be allowed a
15 discount of two and one-half per centum on the whole amount of
16 taxes so paid, and not otherwise.

17 The said collector shall proceed immediately to collect from
18 the persons so charged, by distraint or otherwise, the entire amount
19 of taxes with which they are severally charged therein, and remain-
20 ing unpaid on the first day of January next succeeding said levy.
21 with interest at the rate of one per centum per month from said
22 first day of January until they are fully paid.

Capitation Tax; How Collected.

Sec. 36. The assessor of Marshall county, while making the
2 annual assessment required by law, shall, in addition to the duties
3 enumerated in section fifty-three, chapter eighty of the acts of the
4 legislature of one thousand nine hundred and seven, collect from
5 every person residing in said city, liable for the capitation tax

6 mentioned in section two of article ten of the constitution, a
7 capitation tax of one dollar for said city, in addition to the capi-
8 tation tax in said section and chapter of said acts required to
9 be collected, giving a separate receipt therefor. And the said
10 assessor and his assistants shall have all the powers and perform
11 all the duties with reference to the assessment and collection
12 of such tax for the city of Cameron as are conferred and specified
13 in said section and chapter of said acts with reference to the
14 capitation taxes therein required to be assessed and collected.

15 It shall be his duty, further, once each week to make accurate
16 report to the treasurer of said city, listing the names of all per-
17 sons from whom such tax has been collected, and turn over to
18 said treasurer the amount so collected, less 5 per cent. thereof,
19 which part shall be retained by said assessor as his commission
20 and only compensation for making such collections. The names
21 of all persons liable for such capitation tax, residing in said city,
22 and who have not paid the same to the assessor or his assistant
23 while making the assessments herein referred to, shall before the
24 time herein mentioned for the making out of the tax bills for
25 said city, be certified to the clerk thereof, giving the reasons for
26 failure to collect the said capitation tax; and the clerk shall in-
27 clude such capitation tax in the regular tax bills of said city and
28 place the same in the hands of the collector for collection as here-
29 in before provided.

30 It shall be the duty of the council of said city to supply the
31 assessor with all necessary receipts and reports, incident to the
32 additional duties herein imposed.

Sec. 37. The said collector shall receive all taxes and other
2 moneys due the city authorized by this act or any ordinance
3 thereof to be paid to said city, the collection of which is not
4 herein otherwise provided for, and shall receipt for the same;
5 he shall keep an accurate account of all money paid to him for
6 the use of said city, showing under separate accounts the amounts
7 received on account of taxes, street pavement, forfeitures and
8 from any other source; which account book shall at all times be
9 open to the inspection of council or to any committee appointed
10 by it for that purpose. He shall pay over to the treasurer, with-
11 in one week after receiving the same, all money so collected,
12 showing an itemized statement of the several funds included in
13 each payment, taking the treasurer's receipt therefor. He shall
14 keep his office in the office of the mayor, and shall keep his

14-*a* office open as much as practicable, during business hours.
15 He shall, on or before the first day of January and the first day
16 of July of each year, and oftener if directed by council, present
17 to council a full, complete and detailed statement of all money
18 with which he is chargeable, or that has been received by him
19 from all sources up to that time, together with a statement of all
20 money paid to the treasurer, and proper receipts therefor, and he
21 shall at such time return a list of all taxes, levies, assessments
22 and other claims in his hands for collection which he shall not
23 have been able to collect by reason of insolvency, removal, or
24 other causes, to which list he shall append an affidavit that he
25 has used due diligence to collect the several items therein men-
26 tioned, but has been unable to do so. If the council shall be
27 satisfied with the correctness of said list, it shall allow him credit
28 for said claims, but may thereafter take such lawful measures
29 to collect the same as shall be by it prescribed; the same being
30 consistent with the law in such cases made and provided. The
31 said chief of police and *ex-officio* collector shall upon the expira-
32 tion of his term of office, or upon the order of council, turn over
33 to his successor, all the money, books of account and other prop-
34 erty of said city in his possession; he shall receive such salary
35 as may be fixed by council from term to term, which salary shall
36 not be less than fifty dollars nor more than one hundred dollars
37 per month.

Sec. 38. The said chief of police (and *ex-officio* collector)
2 shall before entering upon the discharge of his duties, execute a
3 bond conditioned for the faithful performance of the duties of
4 his office, and for the accounting and paying over, as required by
5 law, all money and property which may come into his possession
6 by virtue of his office, with sureties satisfactory to council, pay-
7 able to the city of Cameron, in a penalty of not less than one
8 thousand dollars nor more than three thousand dollars as council
9 may prescribe. He shall be chargeable with, and it shall be his
10 duty to collect, the city taxes, levies and assessments under such
11 regulations as may be prescribed by law and by the ordinance of
12 said city, and if the same are not paid within one month after
13 they are placed in his hands for collection, he may distrain and
14 sell therefore in like manner and have the same power and au-
15 thority possessed by the officer charged with the collection of
16 state taxes.

17 If the said collector shall fail to collect, account for and pay

18 over to the treasurer of said city any or all money with which he
19 may be chargeable, belonging to the said city, according to the con-
20 ditions of his bond and orders of council, it shall be lawful for
21 the council to recover the same by action or by motion, upon ten
22 days' notice, in the corporate name of the city, in the circuit
23 court of Marshall county, against him and his sureties, or any
24 or either of them, or his or their executors or administrators.

Health Officer.

Sec. 39. The health officer shall perform such duties as
2 may be prescribed by any ordinance of said city, or by resolution of
3 the council and shall receive a salary at the rate of not more than
4 one hundred dollars per year. He shall receive no compensation
5 from said city, other than the salary herein provided.

Water Rents.

Sec. 40. All water rents due said city, shall be ascertained
2 from time to time as may now or hereafter be provided by coun-
3 cil by proper ordinance or order passed thereby, and the bills for
4 such water rents, prepared by the clerk and placed in the hands of
5 the chief of police for collection. The said chief of police, as *ex-*
6 *officio* collector, shall proceed at once to collect the same, and
7 shall account to the treasurer for all collections as required in
8 section thirty-six of this act regarding other collections for said
9 city.

Street Commissioner.

Sec. 41. The council may appoint some competent person
2 as street commissioner for said city, who shall perform all such
3 duties as may now or hereafter, by ordinances, be imposed upon
4 him. His salary shall be fixed by council from term to term.

City Engineer.

Sec. 42. The said council may employ a competent civil
2 engineer for such general or special work as said council may from
3 time to time deem advisable, and fix the compensation for said
4 work.

Lien for Taxes.

Sec. 43. There shall be a lien on real estate within said
2 city taxes assessed thereon, and for all fines and penalties assessed

3 to, or imposed upon the owners thereof, by the authorities
4 of such city, from the time the same are so assessed or imposed,
5 which shall have the priority over all other liens, except the lien
6 for taxes due the state, county and district; and which may be
7 enforced by the council in the same manner provided by law
8 for the enforcement of the lien for county taxes. If any real es-
9 tate within said city be returned delinquent for the non-payment
10 of the delinquent taxes thereon, a copy of such delinquent list
11 may be certified by the council to the auditor, and the same may be
12 sold for the city taxes, interest and commission thereon, in the
13 same manner, at the same time and by the same officer as real
14 estate is sold for the non-payment of state taxes.

Licenses Generally.

Sec. 44. The council shall have the authority to require
2 a city license as follows: for anything to be done, carried on
3 or exhibited within the city, for which a state license is now or
4 may hereafter be required; for the keeping of hacks, carriages,
5 carts, wagons and other vehicles for hire within the city, and for
6 keeping of dogs within the city, and the council may provide for
7 the killing of all dogs, the keeping of which is not so licensed.
8 And upon all such licenses the council may impose a reason-
9 able tax for the use of the city.

Sec. 45. The council shall prescribe by ordinance the man-
2 ner in which licenses of all kinds shall be applied for and granted,
3 and shall require the payment of the tax thereon to be made to the
4 clerk of said city before delivery to the person applying therefor,
5 and the provisions of section forty-one of chapter thirty-six of
6 the acts of one thousand nine hundred and five, and the provi-
7 sions of section forty of chapter eighty-two of the acts of one
8 thousand nine hundred and seven, regular session, and the pro-
9 visions of section thirty-nine of chapter sixteen of the acts of
10 one thousand nine hundred and seven, extra session, of the
11 legislature of West Virginia, relating to licenses, shall govern
12 the city in the granting of licenses similar in character to those
13 therein mentioned, except where otherwise herein provided.
14 Licenses for keeping dogs shall also expire on the thirtieth day
15 of June next after they are granted, and all other licenses may
16 be for such times as the council may determine.

Power to Condemn.

Sec. 46. The council shall have the right to institute pro-

ceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, landings, city prison, or other work or purpose of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Sidewalks.

Sec. 47. After having caused a proper grade to be established at the expense of said city, the council may require sidewalks or footways on the streets, avenues or alleys of the said city to be paved with brick, stone or such other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots, facing or abutting on such sidewalks or footway, and if the owners of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment, and if the said assessment be not paid within thirty days from the date of said notice he shall cause a memorandum showing the name of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Marshall county, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a lien on such property, which may be enforced by a suit in equity in the name of the city in the circuit court of Marshall county, as other liens against real estate are enforced, and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien; *provided, however,* that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways. and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in said city, or if there be no newspaper published in said city, then in any newspaper published in Marshall county. The provisions of this section shall also

32 be applicable to needed repairs to any of the pavements of the
33 city, and to the substitution of new pavements for any which
34 may have been heretofore, or which may be hereafter laid and
35 completed, and which may be deemed insufficient.

Street Paving.

Sec. 48. The council shall have the authority to provide that
2 any street, avenue, or alley in said city, or any portion of any such
3 street, avenue or alley, between the curbstones, shall be macadam-
4 ized or paved with bricks, cobblestone, or other suitable material,
5 upon the lowest and best terms obtainable; such work may be done
6 by council, under the supervision of its street commissioner or any
7 engineer appointed for that purpose; or the contract for such work
8 may be let to any responsible person, firm or corporation, which
9 said person, firm or corporation, shall, before beginning such work,
10 execute a bond, payable to said city, conditioned upon the faithful,
11 prompt and proper performance of said work. The said city shall
12 place curbs and pave from curb to curb, unless by agreement of
13 any abutting property owner or owners, he, or they, may assume
14 the payment of any part of the cost of such pavement; in which
15 case the approximate amount proposed to be paid, shall be depos-
16 ited in some bank in said city, payable to said city when such work
17 is completed, and accepted by council.

Levy.

Sec. 49. The council shall cause to be made up annually, and
2 spread upon its minute book, an accurate estimate of all the sums
3 which are or may become lawfully chargeable against the city, and
4 which ought to be paid within one year, and it shall order at a
5 meeting held by it in the month of August of each year, as pro-
6 vided by law, a levy of so much as will, in its judgment, be nec-
7 essary to pay the same; such levy shall be upon all real and per-
8 sonal property otherwise subject to state and county taxes, and an
9 annual capitation tax of one dollar upon each male inhabitant of
10 said city who has attained the age of twenty-one years; *provided*,
11 that such levy shall not exceed the amount prescribed by statute
12 law on each one hundred dollars of the ascertained value of such
13 property, except as herein otherwise provided.

Financial Statement.

Sec. 50. In the month of March in each year the council
2 shall cause to be published in some newspaper published in the

3 city, or should there be no newspaper so published, then in some
4 newspaper published in Marshall county, at a compensation not to
5 exceed the rate as provided by law for like publication, for one is-
6 sue, a sworn statement of the financial condition of said corpora-
7 tion; and said statement shall be prepared by the city clerk as pro-
8 vided in section thirty of this act, and shall contain an itemized
9 account of the receipts and expenditures of the city, showing the
10 sources from which all the money was derived, and the name of the
11 person to whom an order was issued, together with the amount
12 of each order, and why such order was issued, arranging the same
13 under distinct heads, and also a specific list of the debts of the
14 city, showing the purpose for which any debt was contracted, the
15 time it became due, the rate of interest, up to what time the in-
16 terest thereon has been paid, the amount of money in the treas-
17 ury at the end of the preceding administration, and the debts con-
18 tracted by it; such statements shall be prepared by the city at the
19 the close of each fiscal year and then shall be printed according to
20 the provisions of this section. This report shall be sworn to by
21 the clerk, by the mayor and members of the financial committee of
22 the council. A copy of such printed report shall be delivered to
23 the judge of the circuit court, one to the clerk of the county court,
24 and one to the clerk of the circuit court of Marshall county, and
25 one shall be kept as a part of the records of the city.

26 If council fail or refuse to perform the duties herein named,
27 every member of such council and the clerk thereof concurring in
28 such failure or refusal shall be guilty of a misdemeanor, and upon
29 conviction thereof shall be fined not less than ten dollars nor more
30 than one hundred dollars.

Bonds; Additional Levy.

Sec. 51. The municipal authorities of said city shall have
2 the power and authority to issue and make sale of the bonds of
3 the said city and to apply the proceeds thereof to the payment
4 for any general improvement therein, or to any debt or obligation
5 of said city, which by general statute or by this act the said city
6 is permitted or required to pay. And to meet the demands of
7 such bond issue, or issues, the council may levy in addition to
8 the levy by general statute authorized a sum sufficient to pay
9 off said bonds and the accruing interest when so directed by
10 ordinance calling for such bond issue. And in addition to the
11 levying power of council herein set out, such additional levies

12 as authorized by section five of chapter nine of the acts of the
13 extra session of legislature of one thousand nine hundred and eight,
14 may be made whenever council may deem it advisable, and meets
15 the requirements of said section; *provided, however,* that the ordi-
16 nance calling for such bond issue, and all matters pertaining
17 thereto shall be first submitted to the voters of said city, at an
18 election called or designated for that purpose, and ratified by
19 three-fifths of all votes cast for and against such issue. Full
20 notice of such election shall be published once a week for four
21 consecutive weeks preceding such election in some newspaper pub-
22 lished in said city; or if no newspaper be so published therein,
23 then in some newspaper published in Marshall county.

Sec. 52. The city council of Cameron shall succeed to all
2 the rights, powers and responsibilities, and be vested with the
3 title of all property of the town of Cameron as heretofore and
4 at present existing, and all officers of said town acting at the
5 time this enactment shall take effect shall continue in office and
6 relinquish the same as directed in section four, five and six of this
7 act, and receive for such services the compensation allowed there-
8 for by the said town of Cameron. All ordinances, by-laws and
9 rules of council in force in said town at the time this act takes
10 effect, unless in conflict herewith, shall continue to have full
11 force, operation and effect until amended, repealed or super-
12 ceded by council under authority herein given or by general
13 statute.

Recall.

Sec. 53. The holder of any elective office may be removed at
2 any time by the electors qualified to vote for a successor of such
3 incumbent. The procedure to effect the removal of an incumbent
4 of an elective office shall be as follows: A petition signed by
5 electors entitled to vote for a successor to the incumbent sought
6 to be removed, equal in number to at least thirty per centum of
7 the entire vote for the candidate for mayor, or for clerk, or for
8 chief of police, or for council, as the case may be, who received
9 the highest vote cast at the last preceding general municipal elec-
10 tion demanding an election of a successor of the person sought to
11 be removed shall be filed with the city clerk, which petition shall
12 contain a general statement of the grounds for which the removal
13 is sought. The signatures to the petition need not all be ap-

14 pended to one paper, but each signer shall add to his signature his
15 place of residence, giving the street. One of the signers of
16 each such paper shall make oath before an officer competent to
17 administer oaths, that the statements therein made are true as
18 he believes, and that each signature to the paper appended is
19 the genuine signature of the person whose name it purports
20 to be.

21 Within ten days from the date of filing such petition, the
22 city clerk shall examine and from the voters' register ascertain
23 whether or not said petition is signed by the requisite number of
24 qualified electors, and he shall attach to said petition his certifi-
25 cate, showing the result of said examination. If, by the clerk's
26 certificate, the petition is shown to be insufficient, it may be
27 amended within ten days from the date of said certificate. The
28 clerk shall within ten days after such amendment, make like ex-
29 amination of the amended petition and if his certificate shall
30 show the same to be insufficient, it shall be returned to the per-
31 son filing the same, without prejudice, however, to the filing
32 of a new petition to the same effect. If the petition shall be
33 deemed to be sufficient, the clerk shall submit the same to the
34 council without delay. If the petition shall be found to be suffi-
35 cient, the council shall order and fix the date for holding said
36 election, not less than thirty days nor more than forty days from
37 the date of the clerk's certificate to the council that a sufficient pe-
38 tition is filed.

39 The council shall make, or cause to be made publication of
40 notice and all arrangements for holding such election and same
41 shall be conducted, returned and the result thereof declared in all
42 respects as are other city elections; *provided, however*, that nomi-
43 nations shall only be of persons of the same political party
44 as the person so sought to be removed, and if the name of the
45 official so sought to be removed shall have been on two or more par-
46 ty tickets at the election at which he was elected, then the nomi-
47 nation of his proposed successor shall be from the party on whose
48 ticket the official so sought to be removed received the highest
49 number of votes. Nominations hereunder shall be made in the same
50 manner as provided for by council for candidates in general elec-
51 tions pursuant to the provisions of section five of this act.

52 The ballots for such special election shall be in substantially
53-61 the following form:

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Official Ballot.

Special election for the balance of the unexpired term of

..... as

For.....

(Vote for one only)

(Names of candidates)

[].....

[].....

Name of present incumbent.

.....

Official ballot attest:

(Signature)

City Clerk.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise, in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate of the same political party of the person sought to be removed receiving the highest number of votes, shall be declared elected. At such election, if such person other than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal shall be cumulative, and additional to the methods heretofore prescribed by law; *provided*, that no election shall be held for the recall of any officer within six months of the beginning of the end of the term for which he was regularly elected or appointed.

Initiative.

Sec. 54. Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and sub-

5 mission of such petition shall be the same as provided for petitions
6 under section fifty-three.

7 If the petition accompanying the proposed ordinance be signed
8 by electors in number to thirty per cent. of the votes cast for the
9 candidate for mayor at the last preceding general election who re-
10 ceived the highest number of votes and contains a request that the
11 said ordinance be submitted to a vote of the people, if not passed
12 by the council, such council shall either:

13 (a). Pass such ordinance without alteration within twenty
14 days after attachment of the clerk's certificate to the accompanying
15 petition; or,

16 (b). Forthwith, after the clerk shall attach to the petition
17 accompanying such ordinance, his certificate of sufficiency, the
18 council shall call a special election, to be held not less than one
19 month after the attachment of said certificate unless a general
20 municipal election is fixed within four months thereafter, and at
21 such special or general municipal election, if one is so fixed, such
22 ordinance shall be submitted without alteration to the vote of the
23 electors of said city.

24 The ballot used when voting upon said ordinance shall contain
25 these words: "For the ordinance" and "against the ordinance",
26 stating the nature of the proposed ordinance. If the majority of
27 qualified electors voting on the proposed ordinance shall vote in
28 favor thereof, such ordinance shall thereupon become a valid and
29 binding ordinance of the city, and any ordinance proposed by peti-
30 tion, or which shall be adopted by a vote of the people, cannot be
31 repealed or amended except by a vote of the people.

32 Any number of proposed ordinances may be voted upon at the
33 same election, in accordance with the provisions of this section,
34 but there shall not be more than one special election in any period
35 of six months for such purpose.

36 The council may submit a proposition for the repeal of any
37 such ordinance or for amendments thereto, to be voted upon at any
38 succeeding general city election; and should such proposition so
39 submitted receive a majority of the votes cast thereon at such elec-
40 tion, such ordinance shall thereby be repealed or amended accord-
41 ingly. Whenever any ordinance or proposition is required by this
42 act to be submitted to the voters of the city at any election, the
43 city clerk shall cause said ordinance or proposition to be published
44 once in some newspaper published in said city, or if there is none
45 so published, then in a newspaper published in Marshall county;

46 such publication to be not more than twenty nor less than five
47 days before the submission of such proposition or ordinance to be
48 voted on.

Referendum.

Sec. 55. No ordinance, franchise or by-law and no resolution
2 or measure for the expenditure of money other than to defray the
3 current and incidental expenses of the city, except when otherwise
4 required by the general law of the state or by the provisions of this
5 act, or made necessary for the immediate preservation of the pub-
6 lic peace, health or safety, and containing a statement of its ur-
7 gency, shall become effective before ten days from the time of its
8 final passage, and not then unless within two days after its final
9 passage, Sundays and holidays excepted, the same shall have been
10 plainly written or printed in full and posted at the front door of
11 the city building of said city, and if during said ten days a petition
12 signed by the electors of said city equal in number to at least thirty
13 per centum of the entire vote cast for the candidate for mayor at
14 the last preceding general city election who received the highest
15 number of votes protesting against the passage of such ordinance,
16 franchise, by-law, resolution or measure, be presented to the clerk,
17 the sufficiency of said petition certified by said clerk as provided
18 by sub-section "b" of section fifty-four of this act and the same
19 presented to council at its next regular meeting, or at a special
20 meeting regularly called for that purpose, the said ordinance, fran-
21 chise by-law, resolution or measure shall thereupon be suspended
22 from going into operation, and it shall be the duty of the council
23 to reconsider such ordinance, franchise, by-law, resolution or meas-
24 ure, and if the same shall not then be entirely repealed the council
25 shall submit the said ordinance, franchise, by-law, resolution or
26 measure in manner also provided by sub-section "b" of section fif-
27 ty-four of this act, to the vote of the electors of the city, either at
28 the general election thereof, should the refusal of council so to re-
29 consider occur within six months next preceding such general elec-
30 tion, or at a special election to be called for that purpose, and such
31 ordinance, franchise, by-law, resolution or measure shall not go
32 into effect or become operative unless a majority of the qualified
33 electors voting on the same shall vote in favor thereof.

Sec. 56. All restrictions, powers and duties of municipal cor-
2 porations contained in the code, or in any general statute hereaf-
3 ter enacted shall apply to the said city of Cameron unless expressly
4 otherwise specified in this act.

Sec. 57. But this act shall not become effective unless the same shall first be submitted to the qualified voters residing within the proposed city of Cameron as shown by the boundary thereof set out in section two of this act, and having received a majority of all the votes cast at the special election hereinafter provided for.

This act shall be submitted to said voters at a special election to be held within the proposed city of Cameron on the fourth Tuesday of April in the year one thousand nine hundred and fifteen.

This act shall be published in full once a week for three successive weeks preceding said special election in the Cameron Star-Tribune, a newspaper published in said city, and if ratified at such election, this act shall go into effect as provided for in section four-a of this act.

Sec. 57-a. The ballot to be voted at said special election shall be printed upon plain, substantial white paper, and shall be in the following form:

City of Cameron Charter Election.

Indicate by a cross in one of the squares below how you desire to vote.

[] For adoption of new charter.

[] Against adoption of new charter.

Sec. 57-b. It shall be the duty of the mayor, the council and recorder now in office to perform the duties in relation to such election as required by general law of county courts and officers on January first, one thousand nine hundred and fifteen; and the provisions of chapter three of the code of West Virginia and the amendments thereof in effect on that date shall govern such election.

Sec. 58. All acts and parts of acts, whether special or general, coming within the purview of this act and inconsistent herewith are hereby repealed.

Senate Bill No. 311

AN ACT creating "The City of Point Pleasant", in the county of Mason, granting a charter thereto and annulling the charters of "The Town of Point Pleasant" and "The Town of North Point Pleasant".

Be it enacted by the Legislature of West Virginia:

Name and Corporate Powers.

Section 1. The inhabitants of Mason county, in the state of West Virginia, now and hereafter residing within the boundaries prescribed in section two of this act be, and they are hereby, constituted a body politic and corporate, by and under the name of "The City of Point Pleasant", and as such, and by and in that name, shall have perpetual succession and a common seal, and may sue and be sued, contract and be contracted with, purchase, lease and otherwise acquire, and hold and use real and personal property necessary for corporate purposes; and generally shall have all of the rights, powers and franchises belonging or in any wise appertaining to municipal corporations in this state.

Boundaries.

Sec. 2. The boundaries of said city shall be as follows: Beginning at a point on the Kanawha river where a stake is called for, being a corner of the lands formerly owned by C. C. Miller, who is now deceased, and the lands of the Kanawha & Michigan Railway Company; thence with the division line between said Miller lands and the Railway Company lands, north 29 degrees 45 minutes, east 204 poles and 22 links to a stake; thence by same course 55 poles and 4 links to a corner of the said Miller lands, the lands of the Kanawha & Michigan Railway Company and the lands formerly owned by J. D. McCulloch; thence north 58 degrees, west 297 poles to a stake on the south side of the Clarksburg road; thence crossing the lands formerly belonging to H. J. Fisher, north 10 degrees west, 90 poles and 12 links to a stake on the south side of a road; thence north 37 degrees 30 minutes west, 37 poles to a large cedar tree on a hillside; thence north 20 degrees 15 minutes, 121 poles to a chestnut oak on a hillside; thence north 28 degrees 30 minutes, east 134 poles and 11 links to a small black oak on the top of a ridge on the lands of P. C. Eastham; thence north 13 degrees 30 minutes west, to the west bank of Crooked

20 creek; thence along the west bank of said Crooked creek with its
21 meanderings and binding thereon north 35 degrees east, 4 poles;
22 north 71 degrees 30 minutes, east, 16 poles; north 23 degrees west
23 20 poles; north 22 degrees east, 12 poles; north 67 degrees 45 min-
24 utes east 12 poles; south 84 degrees 15 minutes east 17 poles; north
25 42 degrees 30 minutes east 12 poles; north 2 degrees east 8 poles
26 to the division line between lands of P. C. Eastham and James
27 Capehart; thence across lands of James Capehart north 25 degrees
28 west 10 poles; north 5 degrees east 4 poles; north 44 degrees 30
29 minutes east 10 poles; north 24 degrees 30 minutes west 9 poles;
30 north 33 degrees 30 minutes east 25 poles; north 56 degrees 30
31 minutes east 32 poles; north 6 degrees east 16 poles; north 38
32 degrees 30 minutes east 22 poles to a point on south side of Jericho
33 road, same being corner to lands of E. J. Mossman; thence with
34 the line of said E. J. Mossman south 37 degrees west 10 poles to
35 a stake in center of road; north 81 degrees 30 minutes west 4 poles
36 10 1-2 links to a point in the center of Jericho road; thence leav-
37 ing said Jericho road north 8 degrees east 32 poles 19 links to a
38 post set in the ground on the fifteenth day of July, one thousand
39 nine hundred and four; thence south 82 degrees east 25 poles to
40 stake on the top of creek bank; thence along the top of creek bank
41 north 27 degrees 15 minutes east 4 poles 16 links; thence north
42 9 degrees east 5 poles 16 links; north 12 degrees west 2 poles 3
43 links; north 13 degrees 15 minutes east 20 poles to a stake; thence
44 north 35 degrees east 10 poles 10 links to a stake in bend of the
45 fence; thence north 14 degrees 30 minutes east 38 poles 10 links
46 to a stake in outline of 36 acre tract known as Lot No. One in
47 Point Pleasant Development Company's survey; thence with line
48 of said Lot No. One, north 82 degrees west 9 poles 15 links to a
49 stake; thence north 41 degrees west 11 poles 8 links to a stake at
50 the northeast corner of Fair Ground; thence along the north line
51 of said Fair Ground north 82 degrees west 9 poles to a stake; thence
52 north 6 degrees east 61 poles 11 links to a stake; thence south 30
53 degrees east 7 1-2 poles to a fence post in southeast corner of cem-
54 etery lot; thence along the south line of cemetery lot north 75 de-
55 grees 45 minutes west 48 poles to the east line of Jackson avenue
56 as laid out by the Point Pleasant Development Company; thence
57 along the east line of Jackson avenue north 9 degrees east 34 poles
58 12 links to a stake in the outline of the Point Pleasant Development
59 Company's land and with said outline and line of land of Mrs. Ham
60 Parr north 76 degrees west 171 poles to a stake in the south bank of

61 Old Town creek; thence along the south bank of said Old Town
 62 creek with its meanders and binding thereon, south 35 degrees west
 63 16 poles 4 links; north 47 degrees 15 minutes west 6 poles; north
 64 28 degrees, 45 minutes west 8 poles; north 75 degrees west 3 1-2
 65 poles; south 3 degrees 30 minutes east 3 poles 4 links; south 28 de-
 66 grees east 6 poles 20 links; south 20 degrees east 5 poles; south
 67 12 degrees west 6 poles and 9 links; south 8 degrees west 7 poles
 68 7 links; north 81 degrees 30 minutes west 4 poles and 22 links;
 69 south 44 degrees 45 minutes west 13 poles and 23 links to the top
 70 of the Ohio river bank; thence north 73 degrees 30 minutes west
 71 to the Ohio and West Virginia state line; thence with said state
 72 line down the Ohio river to a point opposite the center of the Ka-
 73 nawha river; thence crossing the Ohio river and in a line with the
 74 center of the Kanawha river and continuing said course up the cen-
 75 ter of said Kanawha river 503 poles to a point opposite the begin-
 76 ning corner; thence north 29 degrees and 45 minutes, east 325 feet
 77 to the place of beginning.

Wards.

Sec. 3. The territory of said city is hereby divided into
 2 four wards, as follows: That part thereof lying south of Second
 3 street, and the same produced and extended as a line from the
 4 intersection thereof with Walnut street to the east corporation
 5 line by the shortest distance, shall constitute the first ward; that
 6 part thereof lying north of the north line of the first ward
 7 hereinbefore described, and south of Eighth street, produced
 8 and extended as a line from the east end thereof to the east
 9 corporation line, shall constitute the second ward; that part
 10 thereof lying north of Eighth street extended as aforesaid as a
 11 line and the south side of Twenty-first street produced and ex-
 12 tended east and west, as a line, to the Ohio river and to the
 13 east corporation line, respectively, shall constitute the Third ward;
 14 and all that part lying north of the south side of Twenty-first
 15 street produced and extended as aforesaid shall constitute the
 16 Fourth ward.

Redistricting and Increasing Number of Wards.

Sec. 4. After two years from the passage of this act, the
 2 council of said city may change the boundaries and increase the
 3 number of wards; and in either case regard shall be had to equality
 4 of population.

Officers.

Sec. 5. The officers of said city shall be a mayor, and two councilmen from each ward, who shall be freeholders of said city; a clerk, assessor, treasurer, marshal, health officer, street commissioner, city solicitor, and such other officers as the council shall by ordinance provide. The mayor, clerk and assessor shall be elected by the qualified voters of said city, and the councilmen from each ward by the qualified voters thereof; the other officers named, and such other officers as may be provided for by ordinances of the council, shall be appointed by the council. No person shall be eligible to any city office unless he is a taxpayer of the city and a qualified voter; nor unless he has resided therein for at least six months next preceding his election or appointment.

Elections.

Sec. 6. The first election hereunder shall be held on the third Saturday in May, one thousand nine hundred and fifteen, and on the same day in each second year thereafter. Every person who shall have been a *bona fide* resident of the city for three months next preceding any election, and entitled to vote under the constitution and laws of the state, shall be entitled to vote at such election, but only in the ward of his residence. Elections shall be held and conducted and the results ascertained and declared under the general laws governing municipal elections. The voting places shall be designated by the council. Contested elections shall be heard and decided by the council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, return and qualifications of its own members.

Terms of Office.

Sec. 7. The term of office of the mayor, clerk, assessor and councilmen shall be two years, beginning on the first day of July next succeeding their election, and continuing until their successors are elected and qualified. The term of office of the treasurer, marshal, health officer, street commissioner, city solicitor and such other officers as may be provided for by ordinances of the council, shall be prescribed by the council, but shall not exceed two years, and they shall be subject to removal at the pleasure of the council.

Oath of Office.

Sec. 8. Every person elected or appointed to any office in said
2 city shall, before entering upon the discharge of the duties there-
3 of, take, subscribe and file with the clerk the oath prescribed by
4 law for officers generally; and the same may be administered by
5 the mayor, clerk, or other officer or person competent to administer
6 oaths.

Duties, Bonds and Compensation of Appointed Officers.

Sec. 9. The council shall prescribe the powers and define
2 the duties of all officers by it appointed, except so far as the same
3 are by this act prescribed and defined. It shall fix their compen-
4 sation, and may require and take from them respectively bonds
5 payable to the city in its corporate name, with such sureties and
6 in such penalties as may be deemed proper, conditioned for the
7 faithful performance of their duties.

General Powers of the Council.

Sec. 10. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair the
3 roads, streets, cross-streets, alleys, pavements, sidewalks, cross-
4 walks, drains and gutters therein, for the use of the citizens, or
5 of the public, and to improve and light the same, and to keep
6 them free from obstructions of every kind; to regulate the width
7 of the pavements and sidewalks on the streets and alleys, and to
8 order the pavements, sidewalks, footways, drains and gutters to
9 be kept in good order, free and clean, by the owners or occupants of
10 the real property next adjacent thereto; to establish and regulate
11 markets, prescribe the times of holding the same, provide suitable
12 and convenient buildings therefor, and prevent the forestalling
13 or regrating of such markets; to prevent injury or annoyance to
14 the public or to individuals from anything dangerous, offensive
15 or unwholesome; to prohibit or regulate slaughter-houses, tan-
16 houses and soap factories within the city limits; or the exercise of
17 any unhealthy or offensive business, trade or employment; to
18 abate all nuisances within the city limits, or to require and com-
19 pel the abatement or removal thereof by or at the expense of the
20 person causing the same, or by or at the expense of the owner or
21 occupant of the ground on which they are placed or found; to
22 cause to be filled up, raised or drained, by or at the expense of the

23 owner, any city lot or tract of land covered or subject to be cov-
24 ered by stagnant water; to prevent horses, hogs, cattle, sheep or
25 other animals, and fowls of all kinds, from going or being at large
26 in such city, and as one means of prevention, to provide for im-
27 pounding and confining such animals and fowls, and upon fail-
28 ure to reclaim, for the sale thereof; to protect places of divine
29 worship, and preserve order in and about the premises where and
30 when such worship is held; to regulate the keeping of gunpowder
31 and other inflammable or dangerous substances; to provide for the
32 regular building of houses or other structures, and for the making
33 and maintaining of division fences by the owners of adjoining
34 premises, and for the proper drainage of city lots or other
35 parcels of land by or at the expense of the owner or occupant
36 thereof; to provide against danger or damage by fire; to pun-
37 ish for assaults and batteries; to prohibit loitering in or visiting
38 houses of ill fame, or loitering in saloons, or upon the streets;
39 to prevent lewd or lascivious conduct, the sale or exhibition of
40 indecent pictures or other representations; the desecration of
41 the Sabbath day; profane swearing; the illegal sales of all intoxi-
42 cating liquors, drinks, mixtures and preparations; to protect the
43 persons of those residing or being within said city; to appoint
44 when necessary or advisable a police force, permanent or tempo-
45 rary, to assist the marshal in the discharge of his duties; to
46 build or purchase, or lease and use, a suitable place of impris-
47 onment within or near the said city for the safe keeping or
48 punishment of persons charged with or convicted of the violation
49 of ordinances; to erect, or authorize or prohibit the erection and
50 operation of gas, water works, electric light and power works
51 and other public utilities within the city limits; to prevent injury
52 to such works, or the pollution of any gas or water used or in-
53 tended to be used by the public or by individuals; to provide for
54 and regulate the weighing or measuring of hay, coal, lumber and
55 other articles sold, or kept for sale, within said city; to establish,
56 construct, alter, remove and repair landings, wharves and docks,
57 and to establish and correct rates and charges for the use thereof;
58 to regulate the running and speed of engines, cars, automobiles
59 and other vehicles within the said city; to create by ordinances
60 such committees and boards, and delegate such authority thereto,
61 as may be deemed necessary or advisable; to provide for the an-
62 nual assessments of the taxable property therein, and for a reve-
63 nue for the city for municipal purposes, and to appropriate such

64 revenue to its expenses, and generally, to take such measures as
65 may be deemed necessary or advisable to protect the property,
66 public and private, within the city; to preserve and maintain
67 peace, quiet and good order therein and to preserve and promote
68 the health, safety, comfort and well being of the inhabitants there-
69 of. The council shall have authority to pass all ordinances (not
70 repugnant to the constitution and laws of the United States, and
71 of this State), which shall be necessary or proper to carry into full
72 effect and power, authority, capacity or jurisdiction which is or
73 shall be granted to or vested in the said city, or in the council, or
74 any officer or body of officers of said city, and to enforce any or all
75 of their ordinances by reasonable fines and penalties, and by im-
76 prisoning the offender or offenders; and upon failure to pay any
77 fine or penalty imposed, by compelling them to labor without com-
78 pensation, at any of the public works or improvements, undertak-
79 en or to be undertaken by said city, or to labor at any work
80 which the city may lawfully employ labor upon, at such a rate
81 per diem as the council may fix, but not at a less rate than is
82 fixed by said council for like labor from other employes of
83 said city, until any fine or fines and costs imposed upon any
84 such offender or offenders by said city, shall have been fully
85 paid and discharged, after deducting charges of support while
86 in the custody of the officers of said city. *Provided, however,*
87 that no fine shall be imposed exceeding twenty dollars, and that
88 no person shall be imprisoned or compelled to labor, as aforesaid,
89 more than thirty days for any one offense. And in all cases
90 where a fine is imposed for an amount exceeding ten dollars, or
91 a person be imprisoned or compelled to labor as aforesaid, for
92 a term greater than ten days, an appeal may be taken from any
93 such decision upon the same terms and conditions that appeals
94 are taken from the judgment of a justice of this state. Such
95 fines and penalties shall be imposed and recovered, and such im-
96 prisonment inflicted and enforced, by and under the judgment
97 of the mayor of said city, or in case of his absence or inability to
98 act, by the clerk of the said city, or, if he be unable to act,
99 then by a member of the council to be appointed by the council
100 for that purpose. And the jurisdiction of said city, for police
101 and criminal purposes, shall extend to ordinary high water mark
102 on the southerly bank of the Great Kanawha river, and to all
103 bridges crossing said river within the boundary of said city.

Removals, Vancancies, Etc.

Sec. 11. The council shall have the authority to remove any
2 elected officer of the city for misconduct or neglect of duty, by an
3 affirmative vote of three-fourths of the members of the council;
4 but only after reasonable notice to such officer, and a hearing of
5 the charge or charges preferred; and all officers appointed may be
6 removed from office at the pleasure of the council; and unless their
7 terms of office be otherwise fixed by ordinance, they shall be con-
8 sidered as holding their respective offices at the pleasure of the
9 council; and any vacancy in office, however occasioned, may be
10 filled by the council for the unexpired term.

Meetings of Council; Transaction of Business.

Sec. 12. The said council shall fix the place and times of
2 holding regular meetings; may provide for special and adjourned
3 meetings; and may prescribe rules and regulations, not inconsis-
4 ent herewith, for the transaction of business and for its own guid-
5 ance and government. The mayor shall be a member of the coun-
6 cil, and shall preside at its meetings; but in case of his absence the
7 clerk, or one of the councilmen present selected for the purpose
8 by the majority of the members present, shall act temporarily as
9 such presiding officer. A majority of the council shall be neces-
10 sary to constitute a quorum. No member of the council shall
11 vote upon, or take part in the consideration of any proposition in
12 which he is or may be interested otherwise than as a resident of
13 said city; and the mayor or other presiding officer shall have no
14 vote upon any question before the council except in case of a tie,
15 when he shall give the casting vote.

16 In case any ordinance, resolution or measure, shall receive a
17 majority of the votes of the members of the council present, the
18 mayor or any two of the councilmen may insist upon the further
19 consideration thereof; and thereupon it shall not be deemed passed,
20 but shall be postponed until the next regular meeting of the coun-
21 cil, when, if it shall again receive a majority of the votes of the
22 members present, it shall stand and be declared adopted, and not
23 otherwise.

The Minutes; Yeas and Nays.

Sec. 13. At each meeting of the council, the proceedings of
2 the last meeting shall be read, and if erroneous, corrected, and
3 signed by the presiding officer for the time being. Upon the call

4 of any member, the yeas and nays on any question shall be taken
5 and recorded in the minute book.

The Mayor.

Sec. 14. The mayor shall be the chief executive officer of the
2 city. He shall take care that the laws, ordinances, acts and resolu-
3 tions of the council are faithfully executed. He shall be *ex-officio*,
4 a conservator and justice of the peace, within the city, and shall
5 within the same exercise all powers and duties vested in a justice
6 of the peace for the county, except that he shall have no jurisdic-
7 tion in civil causes; nor shall he be a member of the county court.
8 He shall have control of the police of the city, and may appoint
9 special police officers when he deems it necessary. It shall be his
10 duty, especially to see that peace and good order are preserved, and
11 that persons and property are protected in the city. He shall
12 from time to time recommend to the council such measures as he
13 may deem needful for the welfare of the city. He shall before enter-
14 ing upon the duties of his office as such mayor, execute a bond, with
15 sureties satisfactory to the council, in the penalty of one thousand
16 dollars, conditioned for the faithful performance of the duties of
17 his office and for the accounting for and paying over all money
18 that may come into his hands by virtue of his said office.

19 The mayor shall receive a salary of not less than three hun-
20 dred dollars nor more than five hundred dollars per annum, to be
21 fixed by the council, but such salary shall not be increased or di-
22 minished for the term for which he shall be elected. Such salary
23 shall be in lieu of the fees, which would otherwise accrue to him
24 in proceedings for the enforcement of ordinances, but all such fees
25 shall be collected, when practicable, and accounted for to the city.

The Clerk.

Sec. 15. The clerk shall keep in a well bound book, to be
2 called the "minute book", an accurate record of all of the proceed-
3 ings, ordinances, acts, orders and resolutions of the council, and
4 in another book, to be called the "ordinance book", shall keep all
5 general ordinances adopted by the council; both of which books
6 shall be fully indexed and open to the inspection of any one re-
7 quired to pay taxes to the city, or who may be otherwise interested.
8 All oaths and bonds of officers of the city, and all papers of the
9 council, shall be endorsed, filed and securely kept by the clerk. He

10 shall record the bonds of all officers in a well bound book, to be
11 called the "record of bonds". He shall also perform all such other
12 duties as may by ordinance of the council be prescribed. All print-
13 ed copies of such ordinances purporting to be published under au-
14 thority of the council, and all transcripts of such ordinances, acts,
15 orders and resolutions, certified by the clerk, under the seal of the
16 city, shall be deemed *prima facie* correct, when sought to be used
17 in any court, or before any justice.

18 The clerk shall receive a salary of not less than three hundred
19 dollars nor more than five hundred dollars per annum, to be fixed
20 by the council, but such salary shall not be increased or diminished
21 for the term for which he shall be elected.

The Assessor.

Sec. 16. It shall be the duty of the assessor to ascertain the
2 tithables and property within said city subject to taxation, and
3 make return thereof to the council, at such time as may be pre-
4 scribed, substantially in manner and form as in the case of assess-
5 ments by county assessors; and to this end he shall have access to
6 the most recent books and records of the county of Mason upon
7 payment of reasonable fees and charges, to be arranged and pro-
8 vided for by the council. The latest accessible assessment for state
9 and county purposes, including value, shall be used and adopted
10 by him; but as to property not included in such assessment, he
11 shall ascertain the same, fix the value thereof, and include the
12 same in his assessment; but the council may correct any error on
13 his part in this regard, upon the application of any person ag-
14 grieved. In the discharge of his duties he shall have the same
15 powers as are conferred by law upon county assessors. He shall
16 receive a salary to be fixed by the council of not less than two hun-
17 dred dollars nor more than three hundred dollars per annum,
18 which shall not be increased or diminished for the term for which
19 he shall be elected.

Tax Duplicate.

Sec. 17. The council upon the return of the assessor shall
2 cause the said assessor's book to be correctly copied by the clerk
3 into two well bound books to be provided for the purpose, and the
4 taxes extended, and the amount thereof shown, in each book, one
5 of which shall be delivered to the treasurer, taking his receipt
6 therefor, as well as for the taxes therein contained.

The Treasurer.

Sec. 18. It shall be the duty of the treasurer when the said
2 extended copies are completed, to receive one copy thereof, receipt-
3 ing to the council for the same and for the taxes therein extended,
4 and to receive from the parties the entire amount of the taxes with
5 which they are therein severally charged, from and after the first
6 day of October, until and including the thirty-first day of October,
7 of each year; and he shall in said book write the word "paid" op-
8 posite the name of the person so paying, and shall also receipt to
9 such taxpayer for the tax so paid. He shall, as to all the taxes
10 charged on said books for any year and not paid before the first
11 day of November, make out tax tickets therefor in the name of the
12 city, signed by him as treasurer, against all persons in arrears, for
43 the amounts severally due from them, adding the ten per cent.
14 penalty as hereinafter provided, and at once report the aggregate
15 amount thereof to the council, and the council shall thereupon or-
16 der him to deliver said tickets to the marshal for collection, which
17 he shall forthwith proceed to do, taking the marshal's receipt
18 therefor. The treasurer shall receive all money collected by the
19 marshal and receipt to him therefor. He shall receive all taxes
20 upon licenses, and receipt to the party paying the same, by endorse-
21 ment upon the permit granted by order of the council, which per-
22 mit shall be furnished him by the clerk, and charge himself with
23 the amount so received, and report to the council at its next regu-
24 lar meeting thereafter the amount so received by him. He shall
25 also receive such other moneys of the city as he is authorized by
26 this chapter to receive, and all moneys ordered paid him by the
27 council, giving receipts therefor to the parties paying same, and
28 shall keep an accurate account thereof; and his books shall at all
29 times be open for inspection to any taxpayer of the city, and he
30 shall produce said books to said council for inspection at any meet-
31 ing thereof upon the order of the council. The treasurer shall be
32 chargeable with all the city taxes, levies and assessments and
33 money of the city that may come into his hands, and shall account
34 therefor. He shall pay out the moneys in his hands upon the or-
35 ders of the council signed by the mayor and clerk or by one or
36 more members of the council as the council may prescribe. He
37 shall on or before the tenth day of January of each year present
38 to the council a full, complete and detailed statement of all the
39 moneys with which he is chargeable, or that have been received by
40 him up to the first day of January of that year, and shall at the

41 same time in like manner furnish a statement of all disbursements
42 made by him during such previous year, with vouchers evidencing
43 the same. He shall upon the order of the council at any time sub-
44 mit a statement of the amount with which he is chargeable, and
45 his disbursements.

46 The treasurer shall, upon all moneys coming into his hands
47 as such treasurer, and duly paid out or turned over by him upon
48 orders of the council, receive as compensation therefor a sum to
49 be fixed by the council not exceedig five per cent. on the amount
50 collected.

51 He shall before entering upon the duties of his office, execute
52 a bond with good security payable to the said city of Point Pleas-
53 ant, in the penalty of not less than ten thousand dollars, condi-
54 tioned for the faithful performance of the duties of his office, and
55 for the accounting for and paying over as required by law of all
56 money which may come into his hands by virtue of his office. He
57 shall, upon the expiration of his term of office, turn over to the
58 council all moneys, books and other property in his possession be-
59 longing to said city.

The Marshal.

Sec. 19. The marshal shall be chargeable with such city
2 taxes, levies and ten per cent. penalties for non-payment of taxes,
3 as may come into his hands; and it shall be his duty to collect and
4 account for the same, and he may distrain therefor in case they
5 are not paid on demand after they are placed in his hands; and
6 as to such distraint and any sale thereunder, as well as in other
7 respects, he shall have the same power and authority as is pos-
8 sessed by the officer charged with the collection of state taxes. He
9 shall also be chargeable with and collect and account for all as-
10 sessments made by the council, and all fines, costs and rates due
11 the city, which may come into his hands, and at or before the reg-
12 ular meeting of the council in each month shall pay to the treas-
13 urer the money so collected by him, except as provided in section
14 twenty-six of this act, less his commissions, and take a receipt
15 therefor.

16 The marshal, before entering upon the discharge of his duties,
17 shall execute a bond in the penalty of not less than five thousand
18 dollars, payable to the city of Point Pleasant, with sureties satis-
19 factory to the council, and conditioned faithfully to perform the
20 duties of his office, and to account for and pay over, as required

21 by law, all money which may come into his hands by virtue of his
22 office.

Marshal's Settlement and Compensation.

Sec. 20. The marshal shall, at each regular meeting of the
2 council, during his continuance in office, make a report to the coun-
3 cil of the money collected by him from all sources and paid over
4 to the treasurer, designating specifically the items of his said col-
5 lections; and shall also at the regular meetings of the council in
6 September, December, March and June, of each year, make a de-
7 tailed statement of the taxes, fines, penalties, assessments and
8 other claims in his hands for collection. He shall receive for his
9 services in the collection of taxes, the penalties collected by him
10 as aforesaid; and for his collection of other claims due to the city
11 a compensation to be fixed by the council not exceeding five per
12 centum on the amount duly collected and accounted for, except
13 that an additional per centum may be allowed in case of fines.

14 At or before the regular meeting of the council in the month
15 of June of each year, the marshal, with the assistance of the clerk,
16 shall make up for the current fiscal year, the three lists of per-
17 sons and property delinquent for non-payment of taxes and real
18 estate improperly placed on the tax duplicate or not ascertainable,
19 required by section twenty-one of chapter thirty of the code as to
20 state, county and district taxes, and all of the provisions of said
21 chapter, pertaining to persons and property delinquent for non-
22 payment of taxes and real estate improperly charged with taxes,
23 so far as they are applicable, are hereby adopted and made part
24 of this act. The duties prescribed in said chapter for the sheriff,
25 respecting such lists, shall be performed by the marshal, with the
26 assistance of the clerk, and the duties therein prescribed for the
27 county court shall be performed by the council. The provisions
28 of the general law, authorizing the collection of state, county and
29 district taxes returned delinquent, are hereby adopted and made
30 available for the collection of all delinquent city taxes.

31 The marshal shall also return, at the same meeting, a list of
32 such fines, penalties, assessments and other claims in his hands
33 for collection as he shall not have been able to collect by reason of
34 insolvency, removal or other cause, to which shall be appended an
35 affidavit that he has used due diligence to collect the same, but has
36 been unable to do so; and, if the council shall be satisfied of the
37 correctness of said list, it shall allow him credit therefor, but may

38 thereafter take such lawful measures to collect such claims as shall
39 be by it prescribed.

Remedy Against the Marshal.

Sec. 21. If the marshal shall fail to collect, account for and
2 pay over all or any of the moneys with which he may be charge-
3 able, belonging to the city, according to the conditions of his bond
4 and the orders of the council, it shall be lawful for the council
5 to recover the same by action, or motion, upon ten days' notice,
6 in the corporate name of the city, in the circuit court of Mason
7 county, against him and his sureties, or any or either of them, or
8 his or their executors or administrators. If the sum claimed does
9 not exceed three hundred dollars, such recovery may be had before
10 any justice of the said county.

Finances and Expenditures.

Sec. 22. The council shall annually make an estimate in
2 manner and form as is required by chapter nine of the acts of the
3 legislature of West Virginia of the year one thousand nine hun-
4 dred and eight, and shall make a levy of so much as will in its
5 judgment be necessary to pay the same; *provided*, that such levy
6 shall not exceed fifty cents on each one hundred dollars of the as-
7 sessed valuation of the property of the city according to the last
8 assessment thereof. And except as to the amount of said levy as
9 aforesaid, all of the provisions of said act, so far as applicable, are
10 hereby adopted and made part hereof, including the power to
11 make additional levies as therein provided.

Penalty for the Non-Payment of Taxes.

Sec. 23. Upon all taxes and assessments due said city and
2 remaining unpaid on the first day of November of each year there
3 shall be added thereto a penalty of ten per cent., which penalty,
4 together with the taxes in arrears, shall be collected by the mar-
5 shal of the city.

Lien for Taxes, Fines, Etc.

Sec. 24. There shall be a lien on real estate within said
2 city, for the city taxes assessed thereon, and for all assessments,
3 fines and penalties assessed against, or imposed upon, the owners
4 thereof, by the authorities of such city, and interest thereon, as

5 in the case of state and county taxes, from the time the same are
6 so assessed or imposed, which shall have priority over all other
7 liens, except the lien for taxes due the state, county and district,
8 and which may be enforced by the council in the same manner
9 provided by law for the enforcement of the lien for state or
10 county taxes. If any real estate within said city be returned
11 delinquent for the non-payment of taxes due thereon, a copy of
12 such delinquent list shall be certified by the council to the auditor,
13 and a like copy recorded in the office of the clerk of the county
14 court of Mason county, in a book kept in said office for that
15 purpose, and to be furnished by the city. Said real estate may
16 be sold for the city taxes, interest and commissions thereon, in
17 the same manner, at the same time, and by the same officer, as
18 real estate is sold for the non-payment of state taxes, and the
19 laws governing the sale and redemption of delinquent lands, in
20 so far as they are applicable, are hereby adopted and made parts
21 of this act.

Enforcement of Ordinances.

Sec. 25. The process in proceedings to enforce any ordi-
2 nance prescribing a fine or imprisonment, or a fine and imprison-
3 ment, for the violation thereof, shall be a summons, in the name
4 of the city of Point Pleasant, as plaintiff, directed to the marshal,
5 police officer of the city, or any constable of any district within
6 said county, requiring him to summon the person accused of such
7 violation, and who may thereafter be designated as defendant, to
8 appear before the mayor at any time and place therein named,
9 to make answer to such accusation and to be dealt with according
10 to law. Such summons shall contain such statement of the facts
11 alleged as will inform such person of the general nature of the
12 offense against the city with which he may stand charged; and,
13 except in cases of arrest upon view, shall be issued only upon
14 complaint on oath. The mayor shall have, possess and may ex-
15 ercise the power and authority of a justice under sections two
16 hundred and twenty-four and two hundred and twenty-five of
17 chapter fifty of the code of West Virginia, in summoning and
18 enforcing the attendance and examination of witnesses; in pun-
19 ishing for contempts; in granting continuances, and in securing
20 and enforcing the further attendance of the accused, with a view
21 to a trial or hearing. If any recognizance taken for such fur-

22 ther attendance be forfeited, the mayor may record the default,
23 and an action may be maintained in the name of the city, before
24 any justice having jurisdiction, against the accused and his sure-
25 ties, if any, to recover the penalty thereof.

Enforcement of Judgments.

Sec. 26. The mayor shall have power to issue an execution
2 for any fine and costs assessed or imposed by him for the violation
3 of any ordinance, and place the same in the hands of the marshal,
3-a or he may at the time of rendering judgment therefor,
4 or at any time thereafter, and before satisfaction of such judg-
5 ment, by his order in writing, require the immediate payment
6 thereof, and in default of such payment, he may commit the per-
7 son so in default to the prison of said city, or in his discretion to
8 the jail of Mason county until the fine and costs are fully paid;
9 but such imprisonment shall not exceed thirty days. He shall
10 receive all moneys made upon said judgments, whether by exe-
11 cution or otherwise, and after paying the costs to the parties en-
12 titled thereto, shall turn over the remainder to the treasurer
13 on the first Monday in the month after receiving the same, taking
14 his receipt therefor.

Duty of Jailer; Jail Expenses.

Sec. 27. The jailer of Mason county shall take and re-
2 ceive into his custody any person sentenced to imprisonment
3 in the jail of said county, or committed thereto for the non-pay-
4 ment of a fine and costs, or for the failure to enter into a recogniz-
5 ance, by the judgment or order of the mayor, in proceedings for
6 the violation of an ordinance; and the expenses of maintaining such
7 person while so in confinement, shall be paid by the city.

Docket.

Sec. 28. A book, well bound and indexed, to be denominated
2 the "docket," shall be kept in the office of the mayor, in which
3 shall be noted each case brought before or tried by him, together
4 with the proceedings thereon, including a statement of the com-
5 plaint, the summons, the return, the fact of appearance or non-
6 appearance for the defense, the hearing, the judgment, the costs,

7 and in case the judgment be one of conviction, the action taken
8 to enforce the same. The record of such case shall be signed by
9 the mayor, and the original papers thereof, if no appeal be taken,
10 shall be kept together and preserved in his office.

Appeals from Judgments in City Cases.

Sec. 29. In any case of the violation of an ordinance of the
2 said city, in which there is a judgment by the mayor of im-
3 prisonment for more than ten days, or for a fine of more than
4 ten dollars, an appeal shall lie, at the instance of the person
5 against whom such judgment is rendered, to the circuit court of
6 Mason county. Such appeal shall not be granted by the mayor
7 unless within ten days from the date of the judgment, such per-
8 son shall enter into a recognizance, with security deemed suffi-
9 cient, to appear before the said court on the first day of the next
10 term thereof, to answer for the offense against the city with which
11 he stands charged, and not thence depart without leave of said
12 court. The provisions of chapter one hundred and sixty-two of
13 the code of West Virginia, relating to recognizances in crimi-
14 nal cases, shall be applicable to the recognizances contemplated by
15 this section; but any money recovered thereon, or by virtue there-
16 of, shall inure to the said city.

Trial in Court.

Sec. 30. If such appeal be taken, the mayor shall forthwith
2 deliver to the clerk of the said court the complaint in writing, if
3 any, the summons, a transcript of the record, including the judg-
4 ment, the recognizance and any other papers belonging to the case;
5 and such clerk shall receive and file the same, and place the case
6 upon the appeal docket of the next succeeding term of said court;
7 and said court shall proceed to try the same in its order, as ap-
8 peals from justices of the peace are tried.

Judgment in Court.

Sec. 31. If the appellant be found guilty of a violation of
2 the ordinance in question, whether upon the verdict of a jury or
3 otherwise, the court shall ascertain by its judgment the fine or
4 imprisonment or the fine and imprisonment, to be paid or suffered
5 by such defendant, having regard to the punishment prescribed by

6 such ordinance, and shall include in any such judgment the costs
7 incurred by the said city, as well in the proceedings before the
8 mayor as those in court, including a fee to the attorney for the
9 city of five dollars, and the fees, if any, of the jailer or keeper
10 of the city prison; and the proceedings to enforce the collection
11 of any such fine and costs, may be as provided in sections ten,
12 eleven and twelve of chapter thirty-six of the code of West Vir-
13 ginia, except that the writ mentioned in the tenth section, may be
14 issued by the clerk upon the order of the mayor of the city, and
15 the notice contemplated by the eleventh section shall be given to
16 such officer. If the judgment be for the defendant he shall re-
17 cover his costs against the city. .

Appeals in Other Cases.

Sec. 32. From all judgments by the mayor in cases other
2 than for violation of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Chief of Police.

Sec. 33. The marshal shall be the chief of police and shall
2 perform active and constant police service, for which he shall re-
3 ceive a salary of not more than fifty dollars per month. He may,
4 with the consent of the council, entered of record, but not other-
5 wise, appoint a deputy or deputies, who may perform the duties,
6 or any of them, with which he is charged; but the marshal shall
7 in all cases be responsible for the acts or omissions of the deputy
8 or deputies so appointed. Such deputy or deputies shall be paid
9 by the city.

Arrests, Service of Process, Etc.

Sec. 34. In case a violation of any ordinance of said city is
2 committed in the presence, or within view of the marshal or other
3 police officer, the offender may be forthwith apprehended and
4 taken before the mayor, and a complaint, under oath, stating such
5 violation, there lodged and filed; and, thereupon, such offender
6 may be tried and dealt with according to law, without summons.
7 The marshal shall execute within the county of Mason any proper
8 process issued by the mayor, or other proper officer, in proceedings
9 for the enforcement of ordinances; and shall collect, by levy of ex-
10 ecution or otherwise, and duly accounted for, all fines assessed and
11 costs imposed in such proceedings. He shall also have all the rights

12 and powers within said city in regard to the arrest of persons, the
13 collection of claims and the execution and return of process, that
14 are or may be lawfully exercised by a constable of a district with-
15 in the same, and shall be entitled to the compensation therefor;
16 and he and his sureties shall be liable to all the fines, penalties
17 and forfeitures that a constable is liable to for any dereliction of
18 duty in office, to be recovered in the same manner, and in the same
19 courts, that such fines, penalties and forfeitures are recovered
20 against constables.

Licenses.

Sec. 35. The council shall prescribe by ordinance the man-
2 ner in which licenses of all kinds, including licenses for the keep-
3 ing of dogs, shall be applied for and granted, and shall require the
4 payment of the tax thereon before delivery to the person applying
5 therefor; but the council shall not have power to grant any license
6 to sell at wholesale or retail spiritous liquors, wine, porter, ale, beer
7 or drinks of like nature.

8 And the council may make and enforce all reasonable ordinan-
9 ces respecting licenses; *provided, only*, that such ordinances shall
10 not be in conflict with the constitution and laws of this state.

Condemnation Proceedings.

Sec. 36. The council, in the name of the city, may take or
2 damage private property, in the manner prescribed by chapter
3 forty-two of the code of West Virginia, for streets, alleys, drains,
4 market grounds, landings, wharves, city prison, sewers, parks,
5 cemeteries, or other work or purpose of public utility, and the ex-
6 penses of condemnation proceedings shall be borne by the city.

Paving Streets.

Sec. 37. The council, by a lawful majority thereof, may
2 order any street, cross-street, alley or road, or any portion thereof,
3 to be paved in a permanent manner, with cobble-stone, brick, Bel-
4 gian blocks, asphaltum or any other suitable material. One-
5 third of the total cost of such paving shall be borne by the city, and
6 the remaining two-thirds of such total cost shall be paid by
7 the owners of the land abutting on said street, cross-street, alley,
8 road or portion thereof, on the following basis, that is to say,
9 payment is to be made by each land owner in such proportion of
10 two-thirds of the cost of such paving as the frontage in feet of his

11 land so abutting, bears to the total frontage of all land so abutting
12 upon such street, cross-street, alley or road, or portion thereof so
13 paved. Such cost, however, shall not include the grading of such
14 street, cross-street, alley, road, or portion thereof, nor the
15 curbing, which in all cases shall be done by the city.

16 Before commencing such paving the council shall cause a
17 copy of the order requiring the same to be published for four
18 successive weeks in one or more newspapers published in the city.
19 After the completion of such work, the council shall apportion
20 two-thirds of the cost thereof to the abutting land owners, on the
21 basis aforesaid, and assess the same severally against said abut-
22 ting land owners. Such apportionment shall be entered upon the
23 records of the council and published for four successive weeks in
24 one or more newspapers published in the city, and any person feel-
25 ing himself aggrieved by such assessment may, on or before the
26 completion of such publication, apply to the council for correction
27 thereof.

28 Said assessments shall constitute liens upon said abutting
29 lands from the commencement of the work, and bear interest from
30 the date of the apportionment of the cost as aforesaid; which liens
31 may be enforced by suits in equity in the name of the city, in the
32 circuit court of Mason county, or the amount thereof recovered
33 by the city in actions against said abutting land owners in said
34 court, or before any justice having jurisdiction.

Paving Sidewalks.

Sec. 38. After having caused proper curbstones to be set and
2 placed on the outer line of any sidewalk or footway on any of
3 the streets, cross-streets or alleys of said city, and the surface of
4 the ground inside of said curbstone to be properly graded and
5 otherwise prepared for the purpose, the council may require that
6 such sidewalk or footway be paved with brick, stone, concrete or
7 other suitable material, under the direction of the street com-
8 missioner, by the owners respectively of the lots, or of the frac-
9 tional parts of lots, facing or abutting on such sidewalks or foot-
10 ways; and in case the owner of any lot or fractional part of such
11 lot, within reasonable time after service upon him of a written
12 or printed notice of such requirement, signed by the clerk or street
13 commissioner, fails, or refuses to comply therewith, the council may
14 direct that the paving contemplated by such notice be done at the

15 expense of the city, and when so done such expense may be
16 assessed to such owner, and the same shall constitute a lien on
17 such property, which may be enforced by a suit in equity, in the
18 name of the city, in the circuit court of Mason county, or the
19 amount thereof recovered by the city in an action against such
20 owner in said court, or before any justice having jurisdiction. In
21 case the owner is a non-resident of the state, notice aforesaid may
22 be given by publication for four successive weeks, in a newspaper
23 published in said city. The provisions of this section shall also
24 be applicable to needed repairs to any of the pavements of the
25 city, and to the substitution of new pavements for any which may
26 have been heretofore, or which may be hereafter, laid and com-
27 pleted, and which may be deemed insufficient.

Rights and Liabilities of the City.

Sec. 39. The city of Point Pleasant shall succeed to all the
2 rights, powers and privileges of "The Town of Point Pleasant
3 in Virginia," "The Town of Point Pleasant" and "The Town of
4 North Point Pleasant," and all of the property and assets of the
5 said towns shall be vested in and become the property and assets
5-a of the "City of Point Pleasant," and it shall be liable for all
6 the debts and obligations of the said several towns, and subject
7 to all the duties and responsibilities thereof.

8 And all the officers of "The Town of Point Pleasant" and
9 "The Town of North Point Pleasant," acting as such at the time
10 this act takes effect shall continue in office until the first day of
11 July, one thousand nine hundred and fifteen, perform the duties
12 and receive the compensation heretofore conferred, prescribed and
13 allowed by their former charters or by general law or by the ordi-
14 nances of said towns; such ordinances of the town of Point Pleas-
15 ant as are in force on the thirtieth day of June, one thousand nine
16 hundred and fifteen, shall continue and be in force as ordinances of
17 the city of Point Pleasant, so far as they are not inconsistent with
18 this act, until amended or repealed by the council of the city of
19 Point Pleasant.

Providing Voting Places.

Sec. 40. For the purposes of the first election of officers under
2 this act the council and officers of the town of Point Pleasant,
3 so far as may be necessary, are hereby created the council and

4 officers of the city of Point Pleasant, and authorized and em-
5 powered to designate the places of voting in the several wards of
6 said city as herein established, and to hold and conduct said
7 election, and in the conduct thereof, and the ascertainment and
8 declaration of the result thereof, they shall be governed by the
9 law applicable to municipal elections.

Repealing Inconsistent Acts, Etc.

Sec. 41. All acts and parts of acts inconsistent with this
2 act are hereby repealed; but this act shall not be construed to
3 repeal, change or modify any previous act not inconsistent with
4 this act, authorizing said town of Point Pleasant to contract debts
5 or to borrow money, nor to take away any of the powers conferred
6 upon said town, or upon the mayor or council or any of the officers
7 thereof by general law, except so far as the same may be incon-
8 sistent with the powers hereby conferred.

Senate Bill No. 315

AN ACT to amend and re-enact section five of chapter eighty-three of
the acts of the legislature of West Virginia of one thousand nine
hundred and eleven, granting a charter to the city of Parkers-
burg, in the county of Wood.

Be it enacted by the Legislature of West Virginia:

That section five of chapter eighty-three of the acts the legisla-
ture of one thousand nine hundred and eleven, be amended and re-
enacted so as to read as follows:

Section 5. For the purpose of selecting and appointing elec-
2 tion officers for said city, canvassing the vote and declaring the
3 result of all general, special and primary elections held in said
4 city, under this act, an election board is hereby created. Said
5 election board shall be composed of three qualified voters of said
6 city, who shall be persons of good moral character, and not ad-
7 dicted to the excessive use of intoxicating liquors. One member
8 of said board shall be appointed by the council of said city, one
9 by the county court of Wood county, and one by the circuit court
10 of said county or the judge thereof. The members of said elec-
11 tion board shall be appointed not less than thirty days, nor more
12 than sixty days prior to each general and special election to be

13 held in said city under this act, and shall serve until the result
14 of the election for which they were appointed has been ascer-
15 tained, declared and all matters pertaining thereto finally deter-
16 mined. For the purpose of conducting all municipal elections
17 held in said city, it shall be the duty of said election board to
18 appoint three judges of election at each voting precinct in said
19 city, two poll clerks and two challengers for each of said pre-
20 cincts, all of whom shall be qualified voters of said city, of good
21 moral character, and not addicted to the excessive use of intoxi-
22 cating liquors, and not related by blood or marriage to any can-
23 didate, and in no wise interested in the result of any election or
24 primary election at which they serve, otherwise than as a tax-
25 payer or citizen of said city.

26 It shall be the duty of the election board to appoint under the
27 provisions herein, a like number of election judges, poll clerks
28 and challengers with like qualifications to conduct all primary
29 elections held in said city for the nomination of candidates for
30 municipal offices under the provisions of this act. Said election
31 officers appointed hereunder shall be required to take and sub-
32 scribe the same oath required by the statute of this state for elec-
33 tion officers appointed under the general laws of this state. Said
34 officers so appointed to conduct the elections and primary election
35 under this act, shall conform to, and comply with the general
36 laws of this state governing elections and primary elections for
37 state and county officers, and shall be subject to the same penal-
38 ties for the violation thereof.

39 In selecting judges of election, each member of the said elec-
40 tion board shall have the right to nominate one judge of election
41 for each voting precinct, and the said board shall then appoint
42 the three thus nominated.

43 The election officers provided for herein shall be appointed
44 not less than three days nor more than six days prior to the day
45 fixed upon for holding the election or primary which they are
46 chosen to conduct.

47 Candidates to be voted for at all general and municipal elec-
48 tions at which a mayor and four councilmen are to be elected
49 under the provisions of this act, shall be nominated by primary
50 election, and no other names shall be printed upon the general
51 ballot provided for use at any primary election, except those au-
52 thorized to be placed thereon in the manner herein prescribed.
53 The primary election for nomination of candidates for municipal

54 offices shall be held on the second Tuesday preceding the general
55 municipal election.

56 Any person desiring to become a candidate for mayor or
57 councilman shall, at least ten days prior to said primary election,
58 file with the city clerk a statement of said candidacy in substan-
59 tially the following form:

60 State of West Virginia, Wood County, ss:

61 I,, being first duly sworn,
62 say that I reside at.....street, in the city of
63 Parkersburg, county of Wood, state of West Virginia; that I am
64 a qualified voter therein; that I am a candidate for nomination
65 to the office of (mayor or councilman) to be voted upon at the
66 primary election to be held on the Tuesday of
67 19...., and I hereby request that my name be printed upon the
68 official primary ballot for nomination by such primary election
69 for such office.

70 (Signed)

71 Subscribed and sworn to (or affirmed) before me
72 by, on this day of, 19....

73 (Signed)

74 and shall at the same time file therewith the petition of at least
75 twenty-five qualified voters requesting such candidacy. Each pe-
76 tition shall be verified by one or more persons as to the qualifi-
77 cations and residence, with street number, of each of the persons
78 so signing the said petition, and the said petition shall be in sub-
79 stantially the following form:

80 *Petition Accompanying Nomination Statements:*

81 The undersigned, duly qualified electors of the city of Par-
82 kersburg, and residing at the places set opposite our respective
83 names hereto, do hereby request that the name of (name candi-
84 date) be placed on the ballot as a candidate for nomination for
85 (name of office) at the primary election to be held in said city
86 on the Tuesday of, 19.... We
87 further state that we know him to be a qualified elector of said
88 city and a man of good moral character, and qualified, in our
89 judgment, for the duties of such office.

90 Names of Qualified Electors. Number. Street.

91 Immediately upon the expiration of the time of filing the
92 statements and petitions of candidates, the said election board
93 shall cause to be published in two of the daily newspapers pub-

94 lished in the city, (in proper form), the names of the persons
 95 as they are to appear upon the primary ballots, and the said
 96 election board provided for herein, shall thereupon cause the
 97 ballots to be used at the primary election to be printed, authen-
 98 ticated with a *fac simile* of the signature of each member of said
 99 board. Upon the said ballots, the names of the candidates for
 99-a mayor shall be placed with a square at the left of each name and
 99-b immediately below, the words, "Vote for one." Following
 99-c these names, shall appear the names of the candidates for
 100 councilman, in such order as shall be determined by said board
 101 with a square at the left of each name, and below the words,
 102 "Vote for four". The ballots shall be printed upon plain, sub-
 103 stantial, white paper, and shall be headed :

104 Candidates for nomination for mayor and councilmen of
 105 the city of Parkersburg, at the primary election, to be held on
 106 the day of, 19....

107 The form of said ballot shall be prepared by said election
 108 board and may be arranged in substantially the following form:

109 (Place a cross in the square preceding the names of the par-
 110 ties you favor as candidates for the respective offices.)

111 *Official Primary Ballot.*

112 Candidates for nomination for mayor and councilmen of
 113 the city of Parkersburg, at the primary election.

114 For Mayor.

115 (Name of candidates.)

116 (Vote for one.)

117 For Councilmen.

118 (Names of candidates.)

119 (Vote for four)

120 Official Ballot. Attest:

121 Signature

122 *Election Board.*

123 When said ballots are printed, they shall be delivered to
 124 the said election board. Thereupon the said board shall cause to
 125 be delivered at each polling place a number of said ballots, equal
 126 to twice the number of votes cast in such polling precincts at the
 127 next preceding general municipal election for mayor. The per-
 128 sons who are qualified to vote at the general municipal election
 129 shall be qualified to vote at such primary election, and challenges
 130 can be made by not more than two persons to be appointed as
 131 herein provided for; and the law applicable to challenges at a

132 general municipal election shall be applicable to challenges made
133 at such primary election. Judges of election shall, immediately
134 upon the closing of the polls, count the ballots and ascertain the
135 number of votes cast in such precinct for each of the candidates,
136 and make return thereof to the election board within six hours of
137 the closing of the polls. On the day following the said primary elec-
138 tion the said election board shall assemble at the council cham-
139 ber in the city building, and shall canvass said returns so received
140 from all the polling precincts; and shall make and publish in
141 two of the newspapers of said city, at least once, the result there-
142 of. Said canvass by the election board shall be publicly made.
143 The two candidates receiving the highest number of votes for
144 mayor shall be the candidates, and the only candidates, whose
145 names shall be placed upon the ballot for mayor at the next suc-
146 ceeding general municipal election; and the eight candidates re-
147 ceiving the highest number of votes for councilmen, or all such
148 candidates if less than eight, shall be the candidates, and the only
149 candidates, whose names shall be placed upon the ballot for coun-
150 cilmen at such municipal election. In the event of the death
151 or resignation of a nominee before election, the candidate receiv-
152 ing the next highest number of votes at the primary shall be
153 placed on the ticket in his stead.

154 The ballot at such general municipal election shall be in the
155 same general form as for such primary election, so far as appli-
156 cable, and in all elections in such city the election precincts, vo-
157 ting places announcing the ascertaining and declaring the results,
158 and the preparation and distribution of the ballots, shall be
159 the same as herein provided for primary elections for the nomi-
160 nation of candidates, so far as the same are applicable to and not
161 inconsistent with the provisions of this act.

162 In case of a tie vote resulting from any election held in said
163 city under this act, upon any question submitted to the voters of
164 said city, or between two or more candidates voted for at any pri-
165 mary or city election, the said election board shall determine
166 said tie by declaring the nomination or election of one of said
167 candidates, or by declaring the question voted upon carried or
168 lost, as the case may be. In the event of a contest between can-
169 didates over a nomination for, or an election to an elective office
170 under this act, the said election board shall hear and determine
171 said contest and proceedings governing such contest before said
172 board shall be the same as those governing the county court in

172-a contests over the election of county officers. It shall be the duty
173 of said election board to receive the ballots and poll books used
174 at the several voting precincts of said city, at any municipal or
175 primary election, and to safely and securely keep the same under
176 its control, so that no person other than members of said board
177 shall have access thereto, until all questions pertaining to said
178 elections have been finally determined and declared. And it shall
179 be the duty of the judges of election to deliver all ballots, ballot
180 boxes and poll books used at any municipal or primary election
181 to the said election board as soon as the ballots are counted and
182 the result ascertained, as provided herein.

183 The said election board shall receive the sum of four dollars
184 per day each, for the time actually employed in the performance
185 of their duties hereunder, payable out of the city treasury; and
186 the judges of election, poll clerks and challengers shall receive
187 for their service the same compensation allowed by general law
188 for services to officers for conducting elections for state
189 and county officers, the same to be paid out of the city treasury.

190 The judges of the election shall designate in writing one
191 of their number to receive from the election board the ballots,
192 ballot boxes and poll books for their respective precincts, and shall
193 receipt therefor. The person so designated to receive the ballots,
194 ballot boxes and poll books, as provided herein, shall on the day
195 preceding any municipal or primary election, attend at the coun-
196 cil chamber of said city for that purpose, and the said election
197 board shall be and remain in session from ten o'clock, A. M., to
198 five o'clock, P. M., at said council chamber on the day preced-
199 ing every municipal or primary election for the purpose of deliv-
200 ering the ballots, ballot boxes and poll books as herein provided.

201 The members of the election board provided for herein shall
202 qualify as such by taking and subscribing to an oath that they
203 will support the constitution of the United States, the constitu-
204 tion of the state of West Virginia, and that they will faithfully
205 and impartially perform their duties as members of said board
206 as prescribed by law.

207 In the event of a vacancy on the election board, such vacan-
208 cy shall be filled by the same authority that originally made the
209 appointment; and if any election officer provided for herein shall
210 fail or refuse to serve, the vacancy shall be filled by the election
211 board, in the same manner in which the original appointment
212 was made; and if the vacancy is not filled before the polls open

215 for voting, the electors present shall elect a qualified person to
214 serve in the place of such election officer. Said election board
214-a shall keep a record of its proceedings in a well bound book,
214-b which record shall be preserved by the city clerk or auditor with
214-c other records of said city.

215 No officer or employee of the said city shall be eligible to
216 appointment on said election board, nor to serve in the capacity
217 of election officer under this act, nor shall any one be so eligible
218 who has served as an officer of said city, within sixty days prior
219 to any primary or general election, or has been regularly em-
220 ployed by said city within sixty days next preceding his appoint-
221 ment.

222 All acts and parts of acts, inconsistent with this act are
223 hereby repealed.

Senate Bill No. 185

AN ACT to amend and re-enact sections six, seven, twenty-one, twenty-four, twenty-seven and twenty-eight of chapter forty-six of the code of West Virginia, relating to the care of poor persons, and to incorporate in said chapter a new section, to be known as section twenty-six-a thereof, so as to permit the county courts to expend county funds in payment for hospital service rendered to the poor.

Be it enacted by the Legislature of West Virginia:

That sections six, seven, twenty-one, twenty-four, twenty-seven and twenty-eight of chapter forty-six of the code of West Virginia be amended and re-enacted, and that section twenty-six-a be incorporated in said chapter so that said sections shall read as follows:

Section 6. On application by or on behalf of any person who is
2 unable to maintain himself, or by or on behalf of the family of any
3 person when he is unable to maintain it, and the family is unable
4 to maintain itself, such person or family, if he or they have a legal
5 settlement in the county, shall be provided for, or assisted as his
6 or their necessities may require, under the order and direction of
7 the overseer of the district in which such settlement may be; and if
8 he or they have not a legal settlement in the county, shall neverthe-
9 less be so provided for or assisted under the order and direction of
10 the overseer of the district in which he may be, until properly re-

11 moved as hereinafter provided. Whenever it shall appear to any
12 overseer that there is in his district any woman who has such legal
13 settlement and who has one or more legitimate children dependent
14 upon her and that they are in need of assistance, it shall be the
15 duty of said overseer to visit the home of such family without de-
16 lay, and investigate the circumstances, and if it shall appear that
17 assistance is needed to enable such woman to remain with and care
18 for such children, and if it shall further appear that the husband
19 of said woman is dead, or totally incapacitated by reason of mental
20 or physical infirmity, or is confined in some state institution or has
21 abandoned his wife, and that family is dependent upon said mother
22 for support, such assistance may be allowed said woman as may be
23 reasonably necessary under the circumstances to enable said woman
24 to maintain and care for said children at their home, such assist-
25 ance to continue only so long as may be necessary, and in no event
26 to exceed ten dollars per month for one child and five dollars per
27 month for each additional child, the allowance for any child not to
28 continue beyond the age of fourteen years and the total amount al-
29 lowed any family not to exceed twenty-five dollars in one month.
30 The amount allowed shall be expended in such manner as in the
31 opinion of the overseer will best serve the interests of said family.

32 Upon the refusal or failure of any overseer to act in such mat-
33 ter, application may be made by or on behalf of any such woman to
34 the county court, who shall investigate the circumstances and grant
35 or withhold relief as to it may seem proper. In such investigation
36 the overseer of the district to whom application has been made shall
37 be heard concerning his reasons for failing or refusing to grant re-
38 lief in such case.

39 But the county court of the county may change or rescind any
40 order or direction given by such overseer, and may direct any per-
41 son or family to be provided for or assisted, though the overseer of
42 the district has refused to do so.

Sec. 7. Any person to be provided for, or assisted as afore-
2 said, may either be kept at the place of general reception or be
3 supported or assisted elsewhere. But in a county where there is
4 a county infirmary, he shall not be kept at the expense of the
5 county at any place other than such infirmary, except in case of
6 emergency or necessity, and then only as long as the emergency
7 or necessity may require, unless in the opinion of the court
7-a the interests of the county and of the individual or family to be

7-*b* assisted will be better subserved by tendering such assistance else-
7-*c* where than at said infirmary. His need of medical, institutional or
8 surgical attention or hospital or other service which cannot be
9 obtained at such infirmary shall in the discretion of the county
10 court be deemed to constitute such necessity. All poor persons
11 kept at the place of general reception who are able to work,
12 shall be required to perform such reasonable and moderate labor
13 as may be suited to their sex, age, and bodily strength; and the
14 proceeds of such work shall be appropriated to the support of the
15 poor of the county in such manner as the court may from time
16 to time direct, and in those cases where poor persons are sup-
17 ported in whole or in part by the county outside of the poor
18 houses, by allowing annually a certain sum for the support of
19 each person. It shall be the duty of the overseer of the poor,
20 in case of the sickness of any such poor person, to visit him or
21 cause him to be visited by some reliable person, and if it is found
22 that such sick person is suffering for aid or medical or surgical
23 attention or hospital service, such overseers shall furnish the neces-
24 sary aid and cause the necessary medical or surgical attention
25 or hospital service to be given to such poor person, notwith-
26 standing the sum allowed for the support of such person may
27 previously have been exhausted; but the additional aid, attention
28 and service so furnished through such overseer shall not exceed
29 fifty per cent. of the amount already allowed as aforesaid.

Sec. 21. The county court shall cause the county infirmary to
2 be visited at least once a month by one or more of their number,
3 or by one or more of the overseers of the poor, who shall care-
4 fully examine the condition of the inmates, the manner in which
5 they are treated and provided for, ascertain what labor they are
6 required to perform, inspect the books and accounts of the agent,
7 and generally inquire into all matters pertaining to the infirmary
8 and report to the said court. The county court shall have full
9 power to cause like examinations and inquiries to be made with
10 reference to all poor persons who are receiving any hospital ser-
11 vice or similar attention at the expense of the county funds.

Sec. 24. Annually at the session of the county court at which
2 the county levy is laid, and more frequently, if required, every
3 agent or overseer shall render to the court a correct account of
4 his transactions, with proper vouchers, and pay according to its
5 order such balance as may be in his hands. Any agent or over-

6 seer failing to do so shall forfeit not less than thirty nor more
7 than one hundred dollars. Every hospital or similar institution
8 which has received or has applied for any payment out of county
9 funds for service and attention rendered to any poor person, shall,
10 when required by the county court, submit for its inspection such
11 statements of account as will correctly and completely show the
12 nature, extent and value of the service and attention rendered
13 by it to every such person within the current period.

Sec. 26-a. In addition to all other powers and duties respect-
2 ing the care of the poor, the county court of each county may in
3 its discretion pay for hospital service rendered not more than one
4 year previously, within the state of West Virginia, to poor per-
5 sons resident or found in the county, and for medical, surgical
6 or institutional attention given to such persons within this state.
7 But no such payment shall be made to any hospital or other in-
8 stitution which shall fail to permit all such examinations or to
9 answer all such inquiries as are authorized by the twenty-first sec-
10 tion, or which shall fail to render on request such statements of
11 account as are required by the twenty-fourth section.

Sec. 27. The county court of every county shall, at the ses-
2 sion thereof at which the county levy is laid in each year, make
3 up and enter of record a statement of the number of the poor
4 provided for during the year next preceding, and showing how
5 many were white and how many colored; how many were males
6 and how many females; for what length of time, and where each
7 was provided for or assisted, and the nature of such provision or
8 assistance in each case; the name of each person so provided for or
9 assisted; the amount of money at their disposal for the support
10 of the poor for such year, showing how much from the annual
11 levy, and how much otherwise; the amount expended by them for
12 the year, showing how much was expended at the place of general
13 reception, and how much for those supported or assisted else-
14 where; the balance remaining in their hands or under the con-
15 trol of the county court; what amount in addition will be re-
16 quired to pay arrears for the past and meet expenditures for the
17 ensuing year, and what will be the nature of the said expenditures.
18 It shall show whether any, and if any, which of the poor under
19 its charge were kept at work at the place of general reception, for
20 what length of time and in what manner, whether in the work
21 house, or in tilling the land or otherwise. The said statement,

22 and all other proceedings of the county court in relation to the
23 poor, shall be kept in a separate book, to be provided by it for
24 that special purpose. And the amount expended by said court,
25 or under its direction in each year, with the items thereof, shall
26 be published as a part of its financial statement, under section
27 thirty-five of chapter thirty-nine of this code.

Sec. 28. Upon the completion of said statement the county
2 court of the county shall provide in the county levy for such
3 amount as it may deem necessary for the support of the poor for
4 the ensuing year, including the payment of arrears; and from
5 time to time thereafter shall appropriate out of the county treasury
6 such sums for that purpose as the said court may deem proper,
7 and cause proper orders therefor to be issued on the county treasury.
8 In such levy the county court may include an amount not ex-
9 ceeding one mill on each dollar of assessed valuation, to provide
10 for such payments as the county court shall in its discretion make
11 for hospital service or medical or surgical or institutional atten-
12 tion given to poor persons resident or found in the county.
13 All acts and parts of acts in conflict herewith are hereby re-
14 pealed

Senate Bill No. 328

AN ACT to amend and re-enact sections six, seven and ten of chapter
twenty-nine of the code of West Virginia, as last amended and
re-enacted, relating to assessors, assistant assessors, and the salary
of assessors and assistant assessors.

Be it enacted by the Legislature of West Virginia:

That sections six, seven and ten of chapter twenty-nine of the
code of West Virginia, as last amended and re-enacted, be and the
same are hereby amended and re-enacted so as to read as follows:

Section 6. Each county in the state shall constitute one as-
2 sessment district, and shall elect one assessor, whose term of
3 office shall be four years. The assessors now in office shall serve
4 until the expiration of the term for which they were elected, and
5 their successors shall be elected at the general election of one
6 thousand nine hundred and sixteen, and every four years there-

7 after. No person shall be eligible to the office of assessor who
8 is not a resident of the county and a freeholder therein at the
9 time of his election. The county court shall provide the asses-
10 sor with an office in the courthouse, which shall be kept open
11 during the time the assessor is listing property.

Sec. 7. In every county whose population, as shown by the
2 next registration of voters last preceding the election of an as-
3 sessor, on the basis of a population of five for each voter so regis-
4 tered, does not exceed twenty thousand, there shall be appointed
5 two assistant assessors; in each county whose population is thus
6 shown to exceed twenty-two thousand five hundred, and not to ex-
7 ceed thirty thousand, there shall be appointed three assistant as-
8 sessors; in every county whose population is thus shown to ex-
9 ceed thirty thousand and not to exceed sixty thousand, there
10 shall be appointed not less than two nor more than four as-
10-a sistant assessors; in every county whose population is thus
11 shown to exceed sixty thousand, and not to exceed seventy thou-
12 sand, there shall be appointed five assistant assessors; and in every
13 county whose population is thus shown to exceed seventy thous-
14 and, there shall be appointed six assistant assessors. Each of
15 said assistant assessors shall be a voter and resident of the coun-
16 ty in which he is appointed.

17 There may be appointed in each county one additional as-
18 sistant to the number hereinbefore provided, to be known as "the
19 office assistant," who shall have the same power to assess prop-
20 erty as the assessor and other assistants, and shall also stay in
21 the office of the assessor throughout the year and perform the
22 clerical work of the office. The salary of such assistant shall be
23 fixed by the county court, and shall not be less than five hundred
24 dollars, nor more than nine hundred dollars annually, payable
25 proportionately at the end of each month.

Sec. 10. The assessor and his assistants in each county
2 shall receive annually the following compensation to be paid out
3 of the county fund: Each assessor shall receive annually thirty
4 dollars for each full one hundred voters voting at the preceding
5 presidential election for president of the United States in his
6 county, for the first three thousand voters thereof; twenty-five
7 dollars for each full one hundred additional voters as aforesaid
8 up to three thousand additional voters as aforesaid; twenty dollars
9 for each full one hundred additional voters as aforesaid up to three
10-12 thousand additional voters as aforesaid; *provided, however,*

13 that the compensation of any assessor in any county shall in no
14 case be more than twenty-one hundred dollars or less than one
15 thousand dollars, except in those counties in which the popula-
16 tion according to the last preceding census exceeds fifty-five
17 thousand and does not exceed seventy thousand, the assessor
18 shall be paid a salary not exceeding twenty-five hundred dollars;
19 and in counties whose population as aforesaid exceeds seventy
20 thousand, said assessor shall be paid a salary not exceeding three
21 thousand dollars. The salary of the assistant assessors shall be
22 uniform throughout the county, which shall be fixed by the coun-
23 ty court, and which shall not be less than three hundred nor more
24 than six hundred dollars per year.

Senate Bill No. 38

AN ACT to amend and re-enact sections thirteen, fourteen and nine-
teen of chapter seventy-five of the acts of the legislature of West
Virginia of one thousand nine hundred and eleven, entitled, "An
act to amend and re-enact and reduce into one the several acts cre-
ating the Parkersburg independent school district and fixing the
compensation and commission to be paid to the sheriff of Wood
county for collection of taxes for school purposes in that inde-
pendent district; and providing for compulsory attendance."

Be it enacted by the Legislature of West Virginia:

That sections thirteen, fourteen and nineteen of chapter sev-
enty-five of the acts of the legislature of West Virginia of one thou-
sand nine hundred and eleven be amended and re-enacted so as to
read as follows:

Section 13. The board of education shall provide by condem-
nation, purchase, lease, construction or otherwise, school houses
and grounds, furniture, fixtures and appliances, as may be neces-
sary for school purposes, and keep and maintain the same in good
order and repair; and for the purpose of high schools and grounds,
may acquire land, by condemnation or otherwise, not to exceed in
quantity thirty acres in one parcel; shall supply said school
buildings with fuel and other things necessary for comfort and
convenience; and shall pay all charges incurred by virtue of any
of the provisions of this act which are not chargeable to the

11 teachers' fund. In order to provide the funds which are neces-
12 sary for the purpose of this section, the board of education shall
13 annually, at its first regular meeting in July, or as soon as practical
14 thereafter, levy a tax on the property taxable in the said district, in
15 the manner, within the limits and not to exceed the amount pre-
16 scribed by the general school laws of the state relating to levy
17 by boards of education for that purpose.

18 All contracts made by the board, to the extent that they
19 shall involve the levy of any future year, shall be void, and no
20 debts shall be contracted or incurred by the board in any one year
21 which shall exceed the funds available for that purpose, unless the
22 object, nature and extent thereof shall have been submitted to the
23 voters of the district, at a special election to be called by the
24 board for that purpose, and shall have received a majority of all
25 the votes cast for and against the same. The president of said board
26 shall issue a proclamation of said special election, in which he
27 shall recite the object, nature and extent of the indebtedness pro-
28 posed to be incurred, and for what purpose, which proclamation
29 shall be published once in each week for four weeks previous to the
30 day of election in at least two newspapers published in the said
31 district. Every special election held pursuant to the provisions of
32 this section, except as herein otherwise specially provided, shall
33 be held and conducted and the results certified in the manner pre-
34 scribed by the general election laws of the state relating to county
35 or magisterial elections. The proceeds of taxes so levied, or prop-
36 erty sold, of all donations and devises applicable to any of the pur-
37 poses mentioned in this section shall constitute a fund to be called
38 the "building fund," to be appropriated exclusively to the purpose
39 mentioned in this section.

Sec. 14. In addition to the levy named in the preceding sec-
2 tion, the board of education shall for the support of the school in
3 the district, annually levy such tax on the taxable property in the
4 district, as will, with the money received from the state for the
5 support of free schools, be sufficient to keep said schools in opera-
6 tion for not less than nine months in the year. Such levy shall
7 not exceed the limits prescribed for such purpose by the general
8 school laws of the state. The proceeds of this levy, together with
9 the money received from the state aforesaid, shall constitute a
10 special fund, to be called the "teachers' fund," and no part there-
11 of shall be used for any other purpose than the payment of teach-
12 ers' salaries and the salary of the superintendent. The board of

13 education shall have power to establish and maintain a public li-
14 brary, and the library so established and maintained shall be
15 known as the Parkersburg public school library, and shall be for
16 the use of the public schools of the Parkersburg district and the
17 inhabitants thereof, and shall be governed by such rules and regula-
18 tions as the board of education shall prescribe; for the establish-
19 ment and maintenance of said public library the board of education
20 shall have authority to levy annually a tax on the taxable property
21 of the district not to exceed two cents on the one hundred dollars;
22 the proceeds of this levy shall be known as the "public library
23 fund."

Sec. 19. The board of education shall appoint two competent
2 persons to act with the district superintendent as an examining
3 committee to examine all applicants for teachers of schools in the
4 district; each applicant for examination shall pay the fee of one
5 dollar, but the examining committee, with the consent of the board
6 of education, may grant a certificate without examination, or with
7 such partial examination as they may deem advisable, to any per-
8 son holding a diploma from the West Virginia university, or a
9 diploma from such other colleges or universities as the examining
10 committee may place on an accredited list; under like conditions
11 the examining committee may issue a certificate to any graduate
12 of the normal department of the West Virginia state normal
13 school or any of its branches, or such other normal schools as the
14 examining committee may place on an accredited list; also, under
15 like conditions the examining committee may issue a certificate
16 based on other certificates when in their opinion such other cer-
17 tificates are of a rank to justify their action. Certificates of quali-
18 fication shall be issued by said committee, according to proficiency,
19 as follows: Number one, very good; number two, good; number
20 three, medium; but the board may by special regulation, provide
21 for issuance of certificates to colored teachers. No certificate shall
22 be issued for longer than one year; but the number one certificate
23 may be renewed from year to year by the examining committee,
24 at its option, under such regulations as the board may prescribe.
25 The committee shall hold meetings for such examinations at such
26 times and places as the district superintendent may appoint. The
27 examining committee shall receive such fees for their services
28 as the board may allow, to be paid out of the examination fees, the
29 excess of any such fees, if any, to be paid into the building fund.

Senate Bill No. 42

AN ACT to abolish the criminal court of Wood county from and after the thirtieth day of January, in the year one thousand nine hundred and seventeen.

Be it enacted by the Legislature of West Virginia:

Section 1. That the criminal court of Wood county, created by chapter twelve of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-one, entitled "An act establishing a court of limited jurisdiction for the trial of felonies, misdemeanors and offenses, within and for the county of Wood," as amended by chapter thirty-three of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-three, and as amended by chapter eighty of the acts of the legislature of one thousand eight hundred and ninety-seven, and as amended by chapter eighty of the acts of the legislature of one thousand nine hundred and five, be, and the same is hereby abolished from and after the first day of January, in the year one thousand nine hundred and seventeen.

Sec. 2. All indictments, suits, actions and proceedings of every kind pending in said criminal court on the day last aforesaid, together with all records, process and papers pertaining thereto, as well as all records, process and papers pertaining to all trials, indictments, actions, suits and proceedings theretofore had or pending in said court, and all bonds and recognizances taken in said court, shall on and after the day last aforesaid be certified and transmitted by the clerk of said court to, and filed and deposited in the office of the clerk of the circuit court of said county of Wood; and all subpoenas, summonses, and notices, executions, writs and process of every kind, and recognizances outstanding on the day last aforesaid, shall be returned to the office of the clerk of said criminal court if returnable to the office of the clerk of said criminal court, or to the first day of the next ensuing regular term of said circuit court if returnable to said criminal court in term time, the same as if originally made returnable to the said circuit clerk's office or the first day of the said term of said circuit court; and said clerk of said circuit court shall, after the day last aforesaid, have the same powers and perform the same duties in relation to such records, suits, actions, notices, writs, process, papers, and proceedings, including the issuing of executions and other writs upon judgments, decrees or orders of said criminal court, and

23 the certifying of copies from the records of said criminal court, as
24 were vested in and required of the clerk of said criminal court. All
25 indictments, actions, suits and proceedings pending in said crim-
26 inal court on the day last aforesaid, and in all cases, indictments,
27 actions, suits and proceedings which theretofore had been in said
28 criminal court and shall on the day last aforesaid be pending in
29 the circuit court of said county or in the supreme court of West
30 Virginia upon appeal or writ of error, shall be docketed and pro-
31 ceeded in and tried and determined, and such further proceedings
32 as may be proper, had therein by the said circuit court in all re-
33 spects as if the same had been found or originated in said circuit
34 court and had been taken thence on such appeal or writ of error.

Sec. 3. All acts and parts of acts in conflict herewith shall
2 from and after the day last aforesaid be deemed repealed.

Senate Bill No. 8

AN ACT to amend and re-enact sections eight and nine of chapter nine, acts of the legislature of one thousand nine hundred and eight (sections eight and nine of chapter twenty-eight-*a*, serial sections 881 and 882 of the code of 1913) relating to rate and manner of laying levies, special debt levy, provisions as to certain funds, and certain acts prohibited, and penalties.

Be it enacted by the Legislature of West Virginia:

That sections eight and nine of chapter nine of the acts of the legislature of one thousand nine hundred and eight (sections eight and nine of chapter twenty-eight-*a*, serial sections 881 and 882 of the code of 1913) relating to rate and manner of laying levies, special debt levy, provisions as to certain funds, and certain acts prohibited and penalties, be amended and re-enacted so as to read as follows:

Section 8. If any county or any magisterial district or
2 any school district or any independent school district or any mu-
3 nicipal corporation have outstanding unpaid orders on the treas-
4 ury thereof, or unsatisfied judgments, which orders were issued or
5 which judgments were recovered previous to the first day of July in
6 the year one thousand nine hundred and fifteen, the amount where-
7 of is so considerable that it is impracticable to discharge the same
8 out of the proceeds of the regular levy, and the county court or

9 board of education or common council, as the case may be, deem it
10 inadvisable to submit to the voters of the county, district or munic-
11 ipality the question of an additional levy as provided in section
12 five, such court, board, or council may lay a levy in addition to
13 said regular levy, to be called "special debt levy," not exceeding
14 twenty cents on each one hundred dollars of the valuation of the
15 taxable property of the county, district, or municipality, as the
16 case may be, according to the last assessment of such property,
17 and continue such levy for as many years as may be necessary to
18 pay off such debt, and the interest that may accrue thereon,
18-a but not longer. The net amount produced by any
19 such levy, or by any additional levy authorized by section five,
20 or by any special levy authorized by section six, shall not be used
21 for any other purpose, as to such special debt levy than for the
22 payment of such debt, or as to such additional or special levy than
23 for the purpose or purposes named in the order submitting the ques-
24 tion to the voters. The treasurer of each of such funds shall keep
25 an accurate account of the same separately from other funds. If,
26 after paying off such debts or effecting the object of said addi-
27 tional levy or of said special levy, any balance remains of any of
28 said funds, the same shall, first, revert to the sinking fund of the
29 county, or of the magisterial district, or independent school dis-
30 trict, or of the municipal corporation, as the case may be; or, sec-
31 ondly, if there be no such sinking fund, it shall, in case the fund
32 was raised by taxes levied throughout the county, revert to the
33 fund for general purposes of the county; if the fund was raised
34 by taxes levied on the property of a school district or independent
35 school district, said balance shall revert to the teachers' fund of
36 the district; if the fund was raised by taxes levied on the prop-
37 erty of a municipal corporation, said balance shall revert to the
38 fund for general purposes of the municipality; and in case of a
39 magisterial district, said balance shall revert to the road fund there-
40 of; *provided, however*, that before any such special debt levy may
41 be laid as provided for in this section, the same shall be submitted
42 to and approved by the state tax commissioner. Before giving his
43 approval, the state tax commissioner shall require a certified state-
44 ment or list showing in detail the orders and judgments, including
45 names of payees and amounts thereof intended to be paid by such
46 levy. The approval of the state tax commissioner shall be in
47 writing and filed with the clerk, secretary or recorder of the
48 county court, board of education or municipality, as the case may

49 be; and *provided, further*, that the right to lay such levy shall
50 expire with the fiscal year ending June thirtieth, one thousand
51 nine hundred and eighteen; and *provided, further*, that the own-
52 ers or holders of such orders or judgments, which represent such
53 indebtedness, shall file the same with the clerk of the county
54 court, secretary of board of education or recorder of the municipi-
55 pality, as the case may be, and it shall be the duty of every such
56 clerk, secretary or recorder to list such evidences of indebtedness
57 in the order in which presented, giving the number, the date, the
58 payee, the amount thereof and the date when presented to the
59 sheriff for payment, and the present owner or holder; and it shall
60 be his further duty to make four copies of such list, one of which
61 shall be retained in his office, one certified to the state tax com-
62 missioner, one to the sheriff or other treasurer of the fiscal body,
63 one to the county court and one to the board of education or
64 council before the first levy term of said bodies for the first fiscal
65 year next following the making of said lists; and that such listed
66 orders of indebtedness shall be paid in the order in which they
67 are so filed, out of the said special debt levy as hereinbefore pro-
68 vided; and all persons or corporations owning or holding such
69 evidences of indebtedness as the owner, pledgee, assignee or as col-
70 lateral security, who shall fail to present the same for listing with
71 said officers before the levy term in the year one thousand nine hun-
72 dred and seventeen, shall be forever barred from bringing any suit,
73 action or proceeding for the purpose of collecting the same. No sher-
74 iff or other treasurer of any fiscal body herein named shall apply any
75 part of the special debt levy hereby authorized except in payment
76 of the listed orders or evidences of debt hereinbefore provided for,
77 and in the order as herein provided for. And no sheriff or other
78 treasurer shall pay any order, draft or judgment, issued or re-
79 covered before July first, one thousand nine hundred and fifteen,
80 out of any funds in his hands except the special debt fund herein
81 provided for, whenever the same is laid as herein provided for.

Sec. 9. It shall be unlawful for any county court, board
2 of education, or council of a municipal corporation, or other body
3 charged with the administration of the fiscal affairs of any county,
4 school district or independent district, or municipality, to expend
5 any money or to incur any obligation or indebtedness which such
6 tribunal is not expressly authorized by law to expend or to incur.
7 Nor shall any such tribunal make any contract, express or im-
8 plied, the performance of which, in whole or in part, would in-

9 volve the expenditure of money in excess of funds legally at the
10 disposal of such tribunal, nor issue or authorize to be issued any cer-
11 tificate, order or other evidence of indebtedness which cannot be
12 paid out of the levy for the current year, or out of the fund
13 against which it is issued. Nor shall any such tribunal attempt
14 to lay any levy the rate whereof shall exceed the rate specified by
15 law. Any indebtedness created, contract made or order or draft
16 issued in violation hereof, shall be void and of no effect, and any
17 money received thereon may be recovered from the person re-
18 ceiving the same by the fiscal body who created, made or issued
19 the indebtedness, contract, order or draft.

20 Any member of any such tribunal, or any officer or person,
21 who, in violation of any of the provisions of this act, shall expend
22 any money, or incur any debt or obligation, or make or partici-
23 pate in the making of any such contract, or be a party thereto in
24 any official capacity, or issue or cause to be issued any such cer-
25 tificate, order or other evidence of indebtedness, shall be person-
26 ally liable therefor, both jointly and severally, and an action may
27 be maintained therefor by the state, or by any county, municipal
28 corporation, district or person prejudiced thereby, in any court of
29 competent jurisdiction. Any such member, officer or person who
30 shall negligently or wilfully violate the provisions of this act shall
31 be guilty of a misdemeanor, and upon conviction thereof shall be
32 fined not more than five hundred dollars, or be confined in jail not
33 more than one year, or be both fined and imprisoned, and in addi-
34 tion thereto shall forfeit his office. Whenever any court of com-
35 petent jurisdiction by mandamus, injunction, or trial of
36 any action at law, or other judicial proceeding, shall ascer-
37 tain or determine that any member or officer has negligently or
38 wilfully violated any of the provisions of this section, it shall en-
39 ter an order declaring the office of such member or officer for-
40 feited.

41 Any taxpayer of the county, district, board of education or
42 municipality, as the case may be, or the state tax commissioner,
43 for the use and benefit of the county, district, board of education
44 or municipality, as the case may be, may, in his name institute
45 and prosecute to final judgment (including the right of appeal to
46 the supreme court of the state) in any court having jurisdiction,
47 proper action, suit or proceeding, against the individual members
48 of a county court, board of education, municipal council or other

bodies in lieu thereof, to recover from them any moneys expended in violation of, or without authority of law. All moneys recovered in any such action, suit or proceeding shall be paid into the treasury of the proper fiscal body to the credit of the proper fund. The plaintiff, in case he prevails, shall recover his costs against the defendants, including a reasonable attorney's fee to be fixed by the trial court and included in the taxation of costs. Any such taxpayer, or the state tax commissioner, shall have the right to institute and prosecute to final judgment, any proceeding for the removal of any member of any county court, board of education, municipal council or other bodies in lieu thereof, for expending public moneys in violation of, or without authority of law. Upon the filing of a petition by such taxpayer or the state tax commissioner, either in term or vacation, the court, or judge, shall set a time for hearing such petition. An attested copy of the petition, and specification of charges therein contained, shall be served for a period of at least twenty days upon the defendants named therein, and no other pleading or notice of such proceeding shall be necessary.

All acts and parts of acts inconsistent herewith are hereby repealed.

Senate Bill No. 192

(Senate Bill No. 192.)

AN ACT to amend and re-enact section seventy-three, of chapter twenty-nine of the code, relating to the assessment of taxes.

Be it enacted by the Legislature of West Virginia:

That section seventy-three chapter twenty-nine of the code, relating to taxation, be, and the same is hereby amended and re-enacted so as to read as follows:

Section 73. If any person whose duty it is by law to list any real estate or personal property for taxation, refuse to furnish a proper list thereof, or refuse to furnish a list within the time required by law, or to make such oath as required by this chapter; or if any person refuse to answer, or answer untruly, any question asked him by the assessor, or fail or refuse to deliver any state-

7 ment required by law, he shall forfeit not less than twenty-five
8 dollars nor more than one hundred dollars, and shall be denied
9 all remedy provided by law for the correction of any assessment
10 made by the assessor. If any person, firm or corporation, includ-
11 ing the public service corporations, named in section one hundred
12 and eighteen of this chapter, required by law to make return of
13 property for taxation, whether such return is to be made to the
14 assessor, the board of public works, or any other assessing officer
15 or body, fails to return a true list of all property which should be
16 assessed in this state, including money, credits and investments,
17 such person, firm or corporation, in addition to all other penalties
18 provided by law, shall forfeit ten per centum of the value of the
19 property not returned and not otherwise taxed in this state. A
20 forfeiture may be enforced for any such default occurring in any
21 year not exceeding five years prior to the time the same is discov-
22 ered. Each failure to make a true return as herein required, shall
23 constitute a separate offense, and a forfeiture shall apply to each
24 of them, but all such forfeitures to which the same person, firm
25 or corporation is liable, shall be enforced in one proceeding against
26 such person, firm or corporation, or against the estate of any de-
27 ceased person, and shall not exceed fifty per centum of the prop-
28 erty not returned. It shall be the duty of the state tax commis-
29 sioner, or prosecuting attorney of the county in which the default-
30 ing taxpayer resides, or in which county such property should have
31 been returned, to enforce the collection of the same in the name of
32 the state of West Virginia against the defaulting taxpayer, or in
33 case of a decedent, his personal representative, in the circuit court,
34 upon motion, whereof the defendant shall have at least twenty
35 days notice. Either party shall have the right to have the issue
36 tried by jury, and the state, as well as the defendant, shall have
37 the right to an appeal. The prosecuting attorney shall receive
38 ten per centum of the amount collected as his compensation, and
39 an attorney's fee of ten dollars; or, if the suit be instituted by the
40 state tax commissioner, ten per centum of the amount collected
41 and an attorney's fee of ten dollars shall be paid to any person
42 employed by the state tax commissioner to prosecute such pro-
43 ceedings, to be taxed as part of the cost against the defendant, in
44 the event a judgment is recovered against such defendant; the res-
45 idue collected on said judgment shall be turned over to the sheriff
46 and his receipt taken therefor. The sheriff shall apportion said

47 fund among the state, county, district, school district and municipi-
48 palities which would have been entitled to the taxes on said
49 property if it had been assessed, in the proportion that the
50 rate of taxation for each purpose, for the current year in
51 which judgment is obtained, bears to the sum of the
52 rates for all purposes. When the list of property returned
53 by the appraisers of the estate of any deceased person

54 shows an amount greater than the last assessment list of such de-
55 ceased person next preceding the appraisement of his estate, it
56 shall be *prima facie* evidence that such deceased person returned
57 an imperfect list of his property; *provided, however*, that any one
58 liable for the tax, or his personal representative, may always be
59 permitted to prove by competent evidence that the discrepancy
60 between said assessment list and the appraisement of the estate,
61 is caused by a difference of valuation returned by the assessor and
62 that made by the appraisers of the same property or by property
63 acquired after assessment, or that any property enumerated in
64 the appraisers' list had been otherwise listed for taxation, or that
65 it was not liable to taxation. Any judgment recovered under this
66 section shall be a lien, from the time of the service of the notice,
67 upon all the real estate and personal property of such defaulting tax-
68 payer, owned at the time or subsequently acquired, in preference
69 to any other lien. The provisions of this act shall apply to return
70 of property for taxation for the fiscal year beginning July first,
71 one thousand nine hundred and fifteen.

Sec. 74. All acts or parts of acts inconsistent with the pro-
2 visions of this act are hereby repealed.

Senate Bill No. 316

AN ACT to amend and re-enact sections 56-a-LI, 56-a-LII and 56-a-LIII of chapter forty-three of the code of West Virginia, edition of one thousand nine hundred and thirteen (being serial sections one thousand eight hundred and seventeen, one thousand eight hundred and nineteen and one thousand eight hundred and twenty of said code), relating to county road engineers, their appointment and removal.

Be it enacted by the Legislature of West Virginia:

That sections 56-a-LI, 56-a-LII and 56-a-LIII of chapter forty-three of the code of West Virginia, edition of one thousand nine hundred and thirteen (being serial sections one thousand eight hundred and seventeen, one thousand eight hundred and nineteen, and one thousand eight hundred and twenty of said code), relating to county road engineers, their appointment and removal, be amended and re-enacted so as to read as follows:

Section 56-a-LI. There is hereby created in the several counties 2 of the state of West Virginia, the office of county road engineer. 3 The county court in each of the counties of this state may appoint as county road engineer, some practical road builder or 4 civil engineer, who shall be competent to establish grades and 5 keep the roads and records as provided by law. In the event 6 the county court shall not appoint a county road engineer as 7 herein provided, then it may appoint a competent man as road 8 supervisor for each magisterial district, who shall, under the 9 rection and control of the county court, devote his entire time to 10-a any work in progress in the district for which he is appointed and 11 perform the duties hereinafter defined, and who shall be allowed a 12 reasonable compensation by the court for the time in which he is 13 actually engaged in his official capacity, but not to exceed two dollars and a half per day; but nothing in this act contained shall be 14 so construed as to require or compel the county court of any county 15 to appoint either a county road engineer or road supervisor for 16 each magisterial district; such appointment being left to the discretion of the county court.

19 Every road supervisor provided for in this act shall, before 20 entering upon the duties of his office, give bond, with security 21 to be approved by the county court of the county, in such sum 22 as may be required by the said court, the same to be made payable 23 to the county court of the county, and be conditioned for the 24 faithful performance of his duties.

25 Each supervisor of roads shall divide his district into convenient road precincts, not exceeding ten miles in length, and 26 after two weeks' notice of road letting by publication in some 27 newspaper printed in the county, and by posting printed hand 28 bills at various public places in the district, let the construction 29 and repair of said roads by contract for such time as the county 30 court may direct, to the lowest responsible bidder, taking bond 31 from the contractor in a penalty to be fixed by said supervisor,

33 and with condition for the faithful performance of the duties
34 of said contractor, which duties shall be specified in the contract,
35 all of which shall be promptly reported to the county court
36 and approved by it before the same shall become effective. Each
37 road supervisor shall furnish to any person desiring to bid on any
38 road contract specifications of the work required to be done.

39 Said road supervisor shall make such reports and perform
40 such duties from time to time as said court may require; and es-
41 pecially he shall report to the county court on or before the
42 fifteenth day of May of each year the condition of the roads in his
43 district, the improvements proposed, and an estimate of the funds
44 required for the coming fiscal year, and any other matters deemed
45 by him pertinent; and, in addition thereto, he shall within his
46 magisterial district perform the following duties: he shall su-
47 perintend the county roads and bridges, cause the same to be put
48 in good order and repair, of the proper width, well drained, and
49 to be kept clear of rocks, falling timber, landslides, carcasses of
50 dead animals, and other obstructions, and remove all dead timber
51 standing within thirty feet thereof. He shall cause to be opened
52 and made all new county roads and alterations of former roads
53 by proper authority. He shall cause to be placed and kept at
54 the forks or crossings of every county road a guide board, on
55 which shall be stated in plain letters the most noted place to
56 which each road leads. Across every stream, where it is neces-
57 sary and practicable, he shall cause to be placed and kept a suf-
58 ficient bridge, bench or logs, for the accommodation of foot pas-
59 sengers. Where any more important bridge is necessary, and
60 it is practicable for him to have it made, with the money and
61 labor which is at his disposal by virtue of his office, he shall cause it
62 to be made safe and convenient, and at least twelve feet broad,
63 with a railing not less than three feet high on each side. When
64 a county road is suddenly obstructed at any time of the year,
65 by the falling of rock, or timber, landslides or any other cause,
66 or a county bridge is from any cause rendered unsafe, he shall
67 immediately cause such obstructions to be removed or bridge to
68 be repaired.

69 It is provided, however, that the county court, upon petition
70 having been presented, signed by fifty legal voters of the county
71 who are freeholders of said county, shall cause a vote to be taken
72 upon the question at the several voting places in the county, at
73 the next succeeding general election for state or county officers,

74 as to whether the county court shall appoint a road engineer
75 under the provisions of this act; or, whether they shall appoint
76 one supervisor for each and every magisterial district of said
77 county, with duties as herein defined, which said supervisor shall
78 report to the county court in all matters, and shall act under the
79 directions of the county court.

80 The county road engineer if, and when so appointed,
81 shall serve for such term as the county court may fix, but
82 not to exceed a term or period of one year or until his
83 successor is appointed and qualified; and said county court may
84 employ such county road engineer either for a term or period not
85 to exceed one year or by the day.

86 Vacancies in the office of county road engineer shall be filled
87 by appointment for the unexpired term by the county court of
88 the county at their next session. The county road engineer shall
89 receive such compensation, either by salary or per diem; as may
90 be fixed by order of the county court of the county; *provided*,
91 such compensation shall not be more than fifteen hundred dollars
92 per annum; except in counties containing a population of forty-
93 five thousand, or more, the county court of the county in its discre-
94 tion may allow the county road engineer compensation not to
94-a exceed three thousand dollars per annum when employed by the
94-b year, and not more than ten dollars per day when employed by
94-c the day.

95 If thought advisable by the county court, the county sur-
96 veyor of the county elected at the last preceding general election
97 may receive such appointment; *provided*, he be competent as
98 provided by this chapter, and for such services he shall receive
99 the compensation fixed by the county court as provided in this
100 section in lieu of all fees except as are allowed by law for his
101 services as county surveyor.

102 It shall be the duty of the county clerk to give written
103 notice to the appointees provided in this chapter, of their ap-
104 pointment as soon thereafter as practicable, and each person so
105 appointed shall, within ten days after having been notified of
106 such appointment, qualify by giving bond as the court may
107 direct for the faithful performance of his duties, and by taking
108 and subscribing to the oath prescribed by the fifth section of
109 the fourth article of the constitution of the state, a copy of
110 which shall be filed in the office of the clerk of the county court.

111 The county road engineer shall have office room in the

112 court house of the county, or such other place at the county seat
113 as may be provided by the county court.

Sec. 56-a-LII. The county road engineer may be removed
2 summarily at any time by the county court of the county upon
3 its own volition and for such cause as to said court may seem
4 sufficient.

Sec. 56-a-LIII. The county court of the county may, within
2 ten days after such removal, if, in its discretion, it concludes so
3 to do, appoint a county road engineer to fill the vacancy caused
4 by such removal. The person so appointed shall hold office for
5 the unexpired term of the engineer so removed, or for such day
6 or days as said county court may employ him.

7 All acts or parts of acts inconsistent herewith are hereby re-
8 pealed.

Senate Bill No. 103

AN ACT relating to a special levy for the period of three years in any
county where the court house or jail has been or may be destroy-
ed by fire or other casualty, or become unsafe or unfit for use,
and enable such county to repair or rebuild or build anew such
court house or jail.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-four of the acts of the legislature of West
Virginia of one thousand nine hundred and eleven, be and the same is
hereby amended and re-enacted so as to read as follows:

Section 1. That the county court of any county in this state
2 in which the court house or jail has been destroyed by fire, or other
3 casualty, or become unsafe or unfit for use or in need of repair, and
4 which county owes no bonded or funded debt, and which does not
5 lay a levy for county and district purposes in excess of thirty cents
6 on the one hundred dollars valuation on all taxable property
7 therein, as prescribed by chapter sixty-four of the acts of the
8 legislature of one thousand nine hundred and eleven, may, for any
9 three consecutive years, for the sole purpose of creating a fund to
10 repair such court house or jail, or to rebuild and furnish a new court
11 house or jail, lay a special building levy not exceeding twenty
12 cents on the one hundred dollars valuation on the taxable property
13 in such county.

Sec. 2. All acts and parts of acts coming within the purview of this act and inconsistent therewith are hereby repealed.

Senate Bill No. 212

AN ACT to authorize the advertising of the resources of the counties and the advantages and opportunities of the cities, towns and villages of the state.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county may, in its discretion, contract for advertising the material resources of such county in the one thousand nine hundred and fifteen handbook of West Virginia, now being compiled and to be published under direction of the West Virginia commission to the Panama-Pacific exposition, the cost of such advertising to be paid out of the general fund of such county; *provided*, that in no case shall the cost of such advertising exceed the sum of one-fourth of one cent on the one hundred dollars assessed valuation of the property of such county for the year one thousand nine hundred and fourteen.

Sec. 2. The council, board of aldermen, board of affairs or other governing body of any city, town or village may, in its discretion, contract for advertising the advantages and opportunities of such city, town or village in the one thousand nine hundred and fifteen hand-book of West Virginia hereinbefore described, the cost of such advertising to be paid out of the general fund of such city, town or village; *provided*, that in no case shall the cost of such advertising exceed the sum of one-fourth of one cent on the one hundred dollars assessed valuation of the property in such city, town or village for the year one thousand nine hundred and fourteen.

Sec. 3. All acts or parts of acts coming within the purview of this act, and in conflict therewith, are hereby repealed.

Senate Bill No. 245

AN ACT to amend and re-enact sections two, four, six and seventeen of chapter thirty-three of the acts of the legislature of one thousand nine hundred and five, establishing the independent school district of Williamson, in the county of Mingo, in the state of West Virginia, and adding sections seventeen-*a*, seventeen-*b* and seventeen-*c* thereto.

Be it enacted by the Legislature of West Virginia:

That sections two, four, six and seventeen of chapter thirty-three of the acts of the legislature of one thousand nine hundred and five, establishing the independent school district of Williamson, in the county of Mingo, in the state of West Virginia, be and the same are hereby amended and re-enacted, and sections seventeen-*a*, seventeen-*b* and seventeen-*c* added thereto, so as to read as follows:

Section 2. There shall be elected by the qualified voters of the 2 independent school district of Williamson, at a special election to 3 be held on the first Tuesday in June, one thousand nine hundred 4 and fifteen, in said district, at the voting places hereinafter pro- 5 vided for, three commissioners; and every two years thereafter, 6 one commissioner, whose term of office shall commence on the 7 first day of July following their election, and continue six years, 8 and until their successors are elected and qualified, except that 9 one of the commissioners elected in the year one thousand nine 10 hundred and fifteen shall serve two years, another four years and 11 another six years.

12 The ballot used in the said special election shall have 13 printed on it by the officers whose duty it is to make up the bal- 14 lot, the term of office of each member. The said commissioners 15 shall constitute a board of education for the Williamson inde- 16 penden school district to be denominated "the board of education 17 of the Williamson independent school district." Said election to 18 be held, conducted and certified in accordance with the provisions 19 of the general election laws of this state, so far as applicable, and 20 except as specifically provided herein. The officers holding and 21 conducting such elections shall be appointed by the board of edu- 22 cation. The district chairman of the two political parties, re- 23 spectively, casting the highest number of votes in the state at the 24 last preceding general election, shall have the the right to nominate 25 each a commissioner and a clerk for each of the voting precincts

26 in said district, and it shall be the duty of the board of educa-
27 tion to appoint the same, as required by general law.

28 The said election shall be held at the several voting precincts,
29 as established by the city of Williamson, the corporate limits
30 of said city being the same as the boundaries of said district.

Sec. 4. The board of education shall elect annually at their
2 first meeting on the second Monday in July, or as soon thereafter
3 as may be practicable, one of their number to act as president of
4 said board who shall perform all of the duties which shall be re-
5 quired to be performed by any board of education, which will not
6 be inconsistent with the provisions of this act. The board shall
7 appoint at the same time a secretary who may, or may not, be a
8 member of the said board, who shall perform the said duties of
9 the said board, as required by the secretaries of other boards of
10 education. The president shall have one vote as commissioner,
11 and shall not vote upon any question arising before the board by
12 reason of being such officer.

Sec. 6. The board of education shall hold stated meetings
2 at such times and places as they may appoint, not less than two
3 members being required to constitute a quorum for the transac-
4 tion of business. Special meetings may be called by the presi-
5 dent, or at the request of any member, by the secretary. The
6 concurrence of two members of the board shall be required to
7 elect superintendent or teachers, and to decide all questions. The
8 members of the board of education shall each receive a compensa-
9 tion of two dollars for each meeting of the board attended by
10 them, and no compensation shall be paid said commissioners for
11 any meeting of the board at which they are not present.

Sec. 17. The board of education may, annually, at their
2 first regular meeting, appoint two competent persons of opposite
3 politics to act with the superintendent as an examining com-
4 mittee. The superintendent, who shall be *ex-officio* chairman of
5 the board of examiners, shall be required to take no examination
6 for teaching in case he is to teach in said district. The other
7 two members of the board of examiners shall not be eligible to
8 appointment as teachers in the said district during their term of
9 office. It shall be the duty of the said committee to examine all
10 applicants for positions as teachers in the schools of the district,
11 if the board shall so direct, in all common branches, and such
12 other branches as they may be required to teach, and each person
13 so examined shall pay a fee of one dollar; but no applicant shall

14 be entitled to examination who shall not furnish evidence, satis-
15 factory to the committee, of good moral character; certificates of
16 qualification shall be granted according to the merits of the ap-
17 plicant, thus: number one shall denote a very good teacher; num-
18 ber two, good; number three, medium. A number three certifi-
19 cate shall not be issued more than twice to any one person, but
20 the board may make special regulations as they may deem fit con-
21 cerning the certificates of colored teachers. No certificate shall
22 be granted for a longer period than two years, and there shall be
23 no renewals without examination.

24 The committee shall hold meetings for the examination of
25 teachers at such times and places as the superintendent may ap-
26 point. They may receive such compensation as the board may al-
27 low out of the fees for examining teachers. The excess of such
28 fees, if any, shall go into the building fund of the district. But
29 the said board of education shall not employ any person to teach
30 in the public schools of said district who does not have a certifi-
31 cate for the grade for which the appointment is made, issued and
32 obtained, as required by law in the examination of teachers for
33 the public schools of this state, except that the superintendent
34 shall not be required to obtain a certificate, nor shall it be neces-
35 sary, unless the board shall so require, that the teacher of domes-
36 tic science shall have a certificate. And, except, further, that
37 persons shall be eligible as teachers in the said school without ex-
38 amination who held state special certificates, high school certifi-
39 cates in this state, or university or college diplomas from insti-
40 tutions in this state or other states; *provided*, the members of the
41 board do unanimously agree that such persons may teach without
42 further credentials. But so-called number two and three uni-
43 form certificates shall not be recognized.

44 The superintendent shall be appointed by the board and en-
45 ter into a contract, the form of which shall be prescribed by the
46 board, the teachers to sign the form of contract in use generally in
47 the state.

Sec. 17-a. Any child who habitually absents itself from
2 school may be declared by the truant officer, the superintendent
3 or board of education of said district, a confirmed truant. Such
4 confirmed truant, if a boy, may be sentenced by the judge of the
5 circuit court, or by any justice of the peace of Mingo county, to
6 the West Virginia industrial school for boys; or, if a girl, to the
7 West Virginia industrial home for girls; *provided*, that such

8 child is within the age limit set for admission to such institutions.
9 In all cases where a child is so committed to such institution, it
10 shall be placed in charge of some person designated by the court
11 committing such child, to be conveyed under his direction to the
12 designated institution, and the actual necessary expense thereby
13 incurred shall be paid by the board of education of the inde-
14 pendent school district of Williamson.

Sec. 17-b. The board of education of the independent
2 school district of Williamson shall, at its first meeting held after
3 the first day of July, in the year one thousand nine hundred and
4 fifteen, and every two years thereafter, appoint some person as
5 truant officer for said district. Such truant officer shall take his
6 office immediately after appointment. He shall see that the pro-
7 visions of this act are complied with, and when, from personal
8 knowledge, or by report or complaint from any resident or teach-
9 er of the independent school district of Williamson under his su-
10 pervision, he believes that any child, subject to the provisions of
11 this act, is habitually tardy or absent from school, he shall imme-
12 diately give written notice to the parent, guardian or custodian
13 of such child that the attendance of such child is required, and
14 the provisions of the general law applicable to compulsory at-
15 tendance, in so far as it does not conflict with this chapter, shall
16 apply.

Sec. 17-c. The board of education of said independent
2 school district of Williamson, as presently constituted, shall con-
3 tinue in office until the first day of July, one thousand nine hun-
4 dred and fifteen, and until their successors are elected and quali-
5 fied as required by this act and the general laws of the state of
6 West Virginia.

7 All acts and parts of acts inconsistent herewith are hereby
8 repealed.

Senate Bill No. 267

AN ACT to amend and re-enact sections one, three and four of
chapter twenty-six of the acts of the legislature of West Vir-
ginia, of one thousand nine hundred and eleven, relating to
establishing a county high school in Nicholas county, and by
adding one section to said chapter to be known as section nine.

Be it enacted by the Legislature of West Virginia:

That sections one, three and four of chapter twenty-six of the acts of the legislature of one thousand nine hundred and nine, be amended and re-enacted, and that one additional section be added to said chapter to be known as section nine, which amended sections and added section shall read as follows:

Section 1. That a high school be and the same is hereby established in the county of Nicholas, state of West Virginia, in or near the town of Summersville, which shall be known as the Nicholas county high school, the site for which is to be selected by the board of directors of said school, which said board of directors shall, after the first day of July, one thousand nine hundred and fifteen, consist of three members, as follows: the present elective member, whose term expires on the thirteenth day of June, one thousand nine hundred and seventeen, and whose successor shall be elected at the general election in the year one thousand nine hundred and sixteen, and every four years thereafter, and whose term of office shall commence on the first day of July following said election, and continue for four years and until his successor is elected and qualified; the county superintendent of schools of said county shall be *ex-officio* a member and president of said board of directors; the other member of said board of directors shall be appointed by the state superintendent of free schools of this state for a term of four years, beginning on the first day of July, one thousand nine hundred and fifteen, and every four years thereafter, which said member shall be a resident and taxpayer of said county, and shall, in the opinion of the state superintendent of free schools, be a person properly trained and equipped for discharging the duties of such director.

Sec. 3 Said board of directors shall be a body corporate, by the name of the "Nicholas county high school," and as such may sue and be sued, and shall receive, hold and dispose of, according to the usual form of law and the intent of the instrument conferring titles, all gifts, grants or devises made for the use of such high school, and shall be deemed the owner of all property belonging to said high school, and shall be liable for all claims which may legally exist against it.

Sec. 4. Said board of directors is hereby authorized for each year hereafter to lay a levy of ten cents on the one hun-

3 dred dollars of taxable property in said county as ascertained
4 by the last preceding assessment for state and county purposes,
5 for the purpose of procuring proper grounds, erecting and
6 equipping suitable buildings thereon for said high school, for
7 grading grounds, laying sidewalks and for any purpose of car-
8 rying on and maintaining said high school.

Sec. 9. On and after the first day of July, one thousand
2 nine hundred and fifteen, the independent school district of
3 Richwood, in said Nicholas county, shall be exempt from taxa-
4 tion for the purpose of carrying on and maintaining said Nich-
5 olas county high school; *provided*, that said independent school
6 district shall maintain its own high school, and after said date
7 the assessor of Nicholas county shall not extend the levy for
8 "county high school" against any assessment of property in said
9 independent school district of Richwood if a high school is main-
10 tained therein.

11 All acts and parts of acts not consistent herewith are hereby
12 repealed.

Senate Bill No. 270

AN ACT authorizing the county court of Jefferson county to sub-
stitute the bonds of said county bearing interest at the rate
of five per centum per annum for the bonds of said county
now outstanding bearing interest at the rate of four per
centum per annum, and prescribing the conditions for such
substitution.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Jefferson county is here-
2 by authorized to substitute for its bonds now outstanding,
2-a which are exempt from taxes for county, district, or municipal
3 levies, and which bear interest at the rate of four per centum per
4 annum, its bonds which, when issued as hereinafter provided for,
5 shall bear interest at the rate of five per centum per annum.

Sec. 2. The county court of said county shall, should
2 said bonds be issued, as hereinafter provided for, lay a levy in
3 each year sufficient to pay the interest on said bonds, and to
4 create a sinking fund for the liquidation thereof at their ma-
5 turity, which shall be not longer than thirty-four years from
6 the date thereof.

Sec. 3. Before any such bonds are issued, the same shall be authorized by a three-fifths vote of the voters of the county voting upon the question at the next general election held in the county.

Sec. 4. Before any such bonds are issued, the same shall be authorized by a resolution entered of record by the said county court, specifying that the interest on said bonds is to be increased, and such resolution shall further specify the amount and kind of bonds so to be issued, the proposed date of their issuance and of their maturity, where payable, and the rate of interest thereon, which resolution shall be published in two newspapers of opposite political parties, if such be published in the county; if not, then in some newspaper of general circulation in the county, for at least four weeks prior to said election. Such other notice of said election shall be given as the county court may by resolution provide.

Sec. 5. Such election shall be provided for, conducted and the result ascertained and declared as provided by law for holding and ascertaining and declaring the result of general elections, and the ballots to be voted at such election, after containing a statement of the amount, and time for the bonds to be issued, and the rate of interest they are to bear, and the purpose or purposes for which the proceeds are to be used, shall contain the words "For the bonds," and the words "Against the bonds."

Senate Bill No. 56

AN ACT to authorize the judge of the thirteenth judicial circuit to appoint an official shorthand reporter at his discretion, and prescribing his duties and compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. The judge of the thirteenth judicial circuit of West Virginia is hereby authorized and empowered, at his discretion, to employ a competent shorthand reporter to be known as the official shorthand reporter, to report under such regulations as the judge may prescribe, the proceedings and testimony given in the trial of any civil or misdemeanor cases in the courts of said circuit, as well as the proceedings had and the testimony given in any other matter in hearing before said courts, and shall allow said shorthand

9 reporter a reasonable compensation per diem for his attendance
10 upon the courts of said circuit, and actual expenses, to be certified
11 by the judge of said court to the county court of the county in
12 which any such trial may take place or such other matters may be
13 heard and the same shall be paid by such county court out of the
14 county treasury. It shall be the duty of said official shorthand re-
15 porter to keep an accurate record of all cases or proceedings re-
16 ported by him together with the fee for reporting in each case or
17 proceeding, which fee shall be taxed by the clerk as a part of the
18 costs in such case or proceeding, and when paid by the parties to
19 the case or proceeding, it shall be paid into the county treasury.
20 The court may, when necessary, authorize said official shorthand
21 reporter to appoint a deputy official shorthand reporter, who shall
22 be entitled to the same fees for like services as his principal, and
23 be paid in the same manner.

Senate Bill No. 205

AN ACT to amend and re-enact section eight of chapter twenty-nine of the acts of the legislature of West Virginia of one thousand nine hundred and seven, concerning the salary of the clerk of the circuit court of Raleigh county.

Be it enacted by the Legislature of West Virginia:

Section 8. The clerk of the circuit court of Raleigh county
2 shall be *ex-officio* clerk of said criminal court and perform the
3 duties thereof; and shall receive the same fees as are allowed by
4 law for similar services to the clerks of the circuit court; and in
5 the discharge of his duties as clerk of the criminal court he shall
6 be subject to all statutes relating to the clerks of the circuit
7 court. All processes, rules and orders of said court, in the exer-
8 cise of its jurisdiction, shall be signed by the clerk thereof, and
9 be directed to the sheriffs of the proper counties wherein the
10 same are to be executed, and they shall be exercised in like man-
11 ner and with the same effect as processes issuing from the cir-
12 cuit court of said county; and the clerk of said court shall, in
13 addition to the fees of his office, be paid out of the county treas-
14 ury, in the same manner as the salary of the other county officers
15 are paid, not less than one thousand nor more than fifteen hun-
16 dred dollars per annum, to cover in full his salary as clerk of

17 said criminal court, to be fixed by the county court of Raleigh
18 county.

Senate Bill No. 222

AN ACT fixing the time for holding the terms of the circuit court
in the counties of Mingo and Wyoming, for the twenty-second
judicial circuit of this state.

Be it enacted by the Legislature of West Virginia:

That section two of chapter ten, acts of the legislature of
one thousand nine hundred and eleven, be amended and re-enacted
to read as follows:

Section 2. There shall be held in each year in the county of
2 Mingo at least four terms of the circuit court, and in the county
3 of Wyoming at least four terms of the circuit court, and the
4 terms of the several courts for the counties aforesaid shall com-
5 mence and be held as follows:

6 For the county of Mingo, on the first Monday in January,
7 April, July and October of each year.

8 For the county of Wyoming, on the second Monday in Feb-
9 ruary, May, August and November of each year.

10 Special terms of said court may be called and held as pro-
11 vided by general law.

12 All acts and parts of acts inconsistent with this act are hereby
13 repealed.

Senate Bill No. 361

[BY MR. ROSENBLOOM.]

Introduced February 26, 1915. Reference to committee dispensed
with; rules suspended, taken up for immediate consideration, read a
first time and ordered to second reading.

A BILL to amend and re-enact section two of chapter thirty-two of the
code of one thousand nine hundred and thirteen, (serial section
1114) by adding sub-section e-1, e-2, e-3, and e-4 thereto requir-
ing license tax on licenses to practice law, medicine and surgery,

or medicine or surgery, dentistry, or as a veterinarian; also to add to said chapter section ninety-five-1, fixing the amount of yearly license tax for all purposes thereon.

Be it enacted by the Legislature of West Virginia:

That section two of chapter thirty-two of the code of one thousand nine hundred and thirteen (serial section 1114) be and the same is hereby amended and re-enacted so as to read as follows, and that section ninety-five-one be added to said chapter as follows:

Section 2. No person without a state license therefor shall

2 (a) exhibit any circus, menagerie, circus and menagerie com-
3 bine, theatrical performances, street or other carnival, or public
4 show, to which admission is obtained for money or other reward,
5 except for the benefit or under the auspices of a volunteer fire
6 department; or,

7 (b) run or operate for profit a merry-go-round or roller coaster

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8 or scenic railway or like device, or keep for public use or resort a
9 shooting gallery or skating rink; or,

10 (c) act as a hawker or peddler; or,

11 (d) act as an auctioneer; or,

12 (e) practice the business of real estate agent, stock broker, mer-
13 chandise broker, or other broker, by buying or selling for others,
14 stocks, securities, or any other property, for a commission or re-
15 ward; or,

16 (e-1) practice the profession of law as attorney or counsellor
17 at law; or,

18 (e-2) practice the profession of medicine or of medicine and
19 surgery, or either medicine or surgery; or,

20 (e-3) practice the profession of dentistry; or,

21 e-4 practice the profession, or carry on the business of a veteri-
22 narian,

23 (f) practice such business by carrying on what is commonly
24 known as a bucket shop, or acting as agent for any person, firm,
25 or corporation carrying on such business; or by engaging in
26 transactions for the purchase or sale for others of grain, provis-
27 ions, stocks, securities, merchandise or other property, wherein the
28 parties thereto or the broker intend that such transactions shall
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30 board of trade or exchange, and without a bona fide transaction
31 on such board of trade or exchange, or intend that such transac-
32 tion may be deemed terminated when such public market quota-

33 tions shall reach a certain figure, or intend that such property
34 shall be resold before or at the time fixed in such transaction for
35 the delivery of such property and that the difference between the
36 the contract price and the market price thereof shall be paid or re-
37 ceived without the prior receipt or delivery of such property un-
38 der the former sale; or

39 (g) practice the business of money broker, private banker, buy-
40 ing or selling uncurrent or depreciated money or funds; or ex-
41 changing one kind of money or funds for another, for benefit or
42 reward; or

43 (h) practice the business of pawn broker by lending money or
44 other thing of profit, for or on account of personal property
45 deposited with the lender in pledge; or

46 (i) sell, or barter or offer or expose for sale or barter any pat-
47 ent right; or

48 (j) sell, offer or expose for sale to merchants trading stamps,
49 premium stamps or certificates of like nature or character, or un-
50 dertake with merchants to redeem such stamps or certificates in
51 money or goods; or

52 (k) being a traveling agent, canvasser or salesman, sell or con-

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53 tract to sell any lightning rods, sewing machines, stove or range,
54 or organ or other musical instrument, or books, maps, prints,
55 pamphlets, and periodicals, except such books, pamphlets and per-
56 iodicals that be of a religious or ethical nature, whether, manu-
57 factured within or without this State; or

58 (l) sell, offer or expose for sale, or solicit or receive orders for
59 manufactured tobacco, snuff, cigars, cigarettes, or any other prep-
60 aration of tobacco, or cigarette paper or wrappers, at retail; or

61 (m) carry on the business of a junk dealer, or act as agent, so-
62 licitor, canvasser, or salesman for any junk dealer; or

63 (n) sell pistols, revolvers, dirks, slung-shots, billies, bowie-knives
64 metallic or other false knuckles, or weapons of like kind; or

65 (o) maintain or occupy any house-boat, or like structure or ves-
66 sel, upon or along the bed, banks or shores of any navigable
67 stream; or

68 (p) maintain any slot machine or other automatic device which,
69 for the same profit or reward in each case and without any vio-
70 lation of law, furnishes music, or exhibits pictures, or provides fa-
71 cilities for weighing, or supplies any merchandise or other thing,
72 or renders any service except that no license in any case be re-

73 quired to maintain any machine actually delivering merchandise
74 therefrom, automatically, where such machine is kept within the
75 merchant's place of business; but no slot machine or other auto-
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76 matic device with respect to which, or its operation, service or
77 supplies, there is any element of chance (being a gambling table,
78 within the meaning of section one of chapter one hundred and
79 fifty-one of the code), shall be licensed or protected by any license;
80 or

81 (q) maintain or operate an automobile or vehicle of like nature;
82 or

83 (r) being a corporation, heretofore or hereafter chartered under
84 the laws of this state, whether its principal place of business or
85 chief works be within or without the state, do or attempt to do,
86 any business by virtue of its charter or certificate of incorpora-
87 tion; or

88 (s) being a corporation chartered or organized under the laws of
89 any other state or county, hold property or transact business in
90 this state; or

91 (t) being a corporation, hold more than ten thousand acres of
92 land in this state; or

93 (u) solicit, carry on or practice the business of a collection agen-
94 cy or association, whether it be a person, firm or corporation; or

95 (v) keep or maintain a public park, admission to which is ob-
96 tained for money or other reward; or

97 (w) practice the business of telling or pretending to tell for-
98 tunes; or

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99 (y) conduct a social club where spirituous liquors, wine, porter,
100 ale, beer, or drinks, of like nature are sold, exposed for sale,
101 given away or otherwise disposed of; or

102 (z) carry on the business of a labor agency.

103 *Provided*, That nothing in this chapter contained, and no license
104 or payment under the provision hereof shall be taken to legalize
105 any act which otherwise may be in violation of law, or exempt
106 any person from any penalty prescribed for such violation.

Sec. 95-1. On every license to practice the profession of law
2 as attorney or counsellor at law twenty-five dollars; on every li-
3 cense to practice the profession of medicine and surgery, or either
4 medicine or surgery twenty-five dollars; on every license to practice
5 the profession of dentistry twenty-five dollars; on every license to

6 practice the profession of, or carry on the business of a veterinarian,
7 fifteen dollars. A state license for the professions and businesses
8 named in this section shall exempt the holder thereof from taking
9 out an additional license for a like purpose in any city or town or
10 village.

Senate Bill No. 341

[BY MR. ROSENBLOOM.]

Introduced February 16, 1915. Reference to a committee dispensed with; rules suspended, taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact section seven of an act entitled, "~~A~~ act to establish a county court and a board of commissioners for the county of Ohio, under the thirty-fourth section of the eighth article of the constitution of the state of West Virginia," approved December twenty-first, one thousand eight hundred and seventy-two, and amended February twenty-fifth, one thousand nine hundred and nine.

Be it enacted by the Legislature of West Virginia:

That section seven of an act to establish a county court and a board of commissioners for the county of Ohio, under the thirty-fourth section of the eighth article of the constitution of the state of West Virginia, approved December twenty-first, one thousand eight hundred and seventy-two, and amended February twenty-fifth, one thousand nine hundred and nine, be amended and re-enacted to read as follows:

Sec. 7. The commissioners elected as provided in section five
2 shall constitute a board, to be known as "the board of com-
3 missioners of the county of Ohio," by which name they may sue
4 and be sued, and make and use a common seal, and enact ordinances
5 and by-laws not inconsistent with the laws of this state. They
6 shall meet on the first Monday in every month, at the court house
7 of their county, and may hold special and adjourned meetings at
8 any time after their first meeting after election. They shall elect
9 one of their number president of the board, and appoint a clerk,
10 who shall hold his office at their pleasure, and shall keep a journal

11 of their proceedings, including a record of their ordinances in a
12 volume separate from the journal of their proceedings, and shall
13 perform such other services pertaining to his office as may be by
14 them or by law required; and whose compensation they shall fix
15 by ordinance and pay from the county treasury. The said board
16 shall have the same powers now vested in the board of commis-
17 sioners of Ohio county as to the superintendence and administration
18 of the internal police and fiscal affairs of the county, including
19 the establishment and regulation of roads, ways, bridges, public
20 landings, ferries and mills, the granting of ordinary and other
21 licenses, with authority to lay and disburse the county levies. The
22 board shall, in all contested cases, judge of the election, qualifica-
23 tion and returns of its own members, and of all county and district
24 officers; and it shall exercise such other jurisdiction and perform
25 such other duties as may be prescribed by law. The said com-
26 missioners shall each receive a compensation of twenty-five hun-
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27 dred dollars per year for their services as commissioners, to be
28 paid out of the county treasury. Any commissioner may be in-
29 dicted for malfeasance, misfeasance or neglect of official duty, and,
30 upon conviction thereof, his office shall become vacant. A vacancy
31 in the board of commissioners, whether from resignation, removal
32 from the sub-division from which he was elected, removal from
33 office, death or other cause, shall be filled by the remaining mem-
34 bers of the board.

Senate Bill No. 355

[BY MR. WHITE.]

Introduced February 24, 1915. Refereence to Committee dispensed with; rules suspende, taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact sections one, two and three of chapter 15-B of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three of chapter 15-B of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 1. There is hereby established, in lieu of the bureau
2 of archives and history, which is hereby abolished, a department

3 to be known as the library of history, in which shall be collected
4 for permanent preservation, so far as can now be done, all valu-
5 able papers and documents relating to the settlement and his-
6 tory of this state. In this library shall be devised and adopted
7 a systematic plan for the preservation and classification of all the
8 state archives of the past, present and future. To it shall be trans-
9 ferred all the books, pamphlets, papers, maps, charts, works of
10 history, biography and kindred subjects and relics, curios and
11 other property now in the said bureau of archives and history, and
12 in it shall be collected and preserved additiional books, pamphlets,
13 papers, maps, charts, works of history, biography and kindred

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14 subjects and works of West Virginia authors and additional relics
15 and curios.

Sec. 2. The said library shall be a department of the state
2 government, and it shall occupy rooms in the state capitol or
3 in the annex thereto. It shall be under the management of a
4 non-partisan commission of three persons, to be known as the
5 library comission, to be appointed by the governor, which body
6 shall have full power and authority to adopt and establish such
7 by-laws and regulations for its government, as it may deem nec-
8 essary and proper to effect the objects of this department, and
9 it shall cause to be enforced such library rules and regulations as
10 will secure to students and readers and those making research and
11 investigation that order, quiet and system necessary therein.

12 It shall take into its keeping the old battle and regimental
13 flags borne by the West Virginians in war, together with all
14 other property, of whatever character which has been purchased
15 by the funds of the state, and shall cause the flags and all of
16 said property now in the state bureau of archives and history to
17 be made a part of the collection of the library of history, therein
18 to be kept, classified, labeled and catalogued in such a manner
19 as to be of greatest use to the public.

Sec. 3. The library of history shall be in charge of a per-
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2 son who shall be appointed by the governor, and who shall be
3 known as the state librarian of history, and he shall hold office
4 at the pleasure of the governor. His compensation shall not ex-
5 ceed the sum of twenty-five hundred dollars per annum, and
6 shall be fixed by the board of public works. Such assistants as

7 may be necessary, not less than four in number, shall be appointed
8 by the board of public works upon the recommendation of the
9 library commission, whose compensation shall be fixed by said
10 board, and there is hereby appropriated out of the revenues of
11 each of the fiscal years ending June thirtieth, one thousand nine
12 hundred and sixteen, and June thirtieth, one thousand nine hun-
13 dred and seventeen, for the compensation of the librarian of his-
14 tory, the sum of twenty-five hundred dollars, and for the pay of
15 assistants, the sum of five thousand dollars; and, for the pur-
16 chase of books, pamphlets, historical magazines and other publi-
17 cations, equipment, binding and contingent expenses, the sum of
18 four thousand dollars. On the taking effect of this act, all offices
19 and employments in said bureau of archives and history shall
20 cease and determine, and the management and control of the
21 property and business of the state now in the said bureau of
22 archives and history shall pass into the hands of the officers and
23 assistants to be appointed under the provisions of this act.

Sec. 4. The state librarian of history shall be the custodian

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2 of all the collections in the library of history, and it shall be his
3 duty to carry into operation and effect the provisions of section
4 one of this act, in which he shall be guided and controlled by the
5 advice and recommendations of the library commission.

Sec. 5. It shall be the duty of the library commission to ar-
2- range for the publication of such matter as the legislature may,
3 from time to time, provide for printing, and cause the rooms of
4 the library to be kept open to the public daily, except Sunday,
5 from nine o'clock in the forenoon until four o'clock in the after-
6 noon, through the year, and from seven o'clock until ten o'clock
7 in the evening during the sessions of the legislature. The said
8 commission shall make annually a report to the governor to be
9 by him transmitted to the legislature, which report shall contain
10 an exhibit of all the state papers, public documents, books, pam-
11 phlets and other property belonging to the library of history, of
12 its annual accumulations, and a statement of the receipts and ex-
13 penditures, accompanied by such recommendations as the com-
14 sion shall deem for the state's interest in said library.

15 The compensation of the members of said commission shall
16 be four dollars each per day for the time employed in and about
17 the affairs of the library, and they shall be allowed their actual
18 and necessary traveling expenses incurred by them in the dis-

19 charge of their duties as members of said commission. Out of
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20 the revenues of each of the fiscal years ending June thirtieth, one
21 thousand nine hundred and sixteen, and June thirtieth, one thou-
22 the sum of five hundred dollars to pay the compensation and ex-
23 penses of the members of said commission.

24 sand nine hundred and seventeen, there is hereby appropriated

Sec. 6. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

Senate Bill No. 346

[BY MR. GRAY.]

Introduced February 18, 1915. Reference to committee dispensed with; rules suspended and taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact sections two, three, four and five of chapter sixty-four of the acts of one thousand nine hundred and five, and to add to said chapter sections six, seven, eight, nine, ten, eleven and twelve, providing for the management of the bureau of archives and history; for the appointment of a library commission; prescribing the powers and duties thereof; providing for the establishment of a free library service; for the maintenance of a legislative reference and public information service, and for the establishment of a traveling library system.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four and five of chapter sixty-four of the acts of one thousand nine hundred and five be amended and re-enacted, and that sections six, seven, eight, nine, ten, eleven and twelve be added to said chapter, so as to read as follows:

Sec. 2. The said bureau shall be a department of the state government, and it shall occupy rooms in the state capitol or in the annex thereto, or in such building as may be provided by the state. It shall be under the management of the library commission, which body shall have full power and authority to adopt and es-

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5 tablish such by-laws and regulations for its government as it
6 may deem necessary and proper to effect the objects of the bureau.
7 and it shall cause to be enforced such library rules and regulations

8 as will aid students, readers, investigators and research workers
9 in the use of the material of the bureau. It shall keep and care
10 for the battle flags and regimental flags borne by West Virginians
11 in war, together with all other property, of whatever character,
12 which has been purchased by the state's money and held in trust
13 for the state by the West Virginia historical and antiquarian
14 society.

Sec. 3. The bureau shall be in charge of a person who shall
2 be appointed by the governor for the term of four years, and who
3 shall be known as the state historian and archivist. He shall be
4 the custodian of the collections in this bureau, and it shall be his
5 duty to carry into operation and full effect the provisions of sec-
6 tion one of this act. He shall arrange for the publication of such
7 matter as the legislature may, from time to time, provide for print-
8 ing, and enforce all rules and regulations, pertaining to the bureau,
9 as required by the library commission. He shall cause the rooms
10 of the bureau to be kept open to the public daily, except Sunday,
11 from nine o'clock in the morning, until four o'clock in the after-
12 noon, throughout the year; and from seven o'clock until ten o'clock
13 in the evening during the sessions of the legislature. He shall
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14 make annually a report to the governor to be transmitted by him
15 to the legislature, which report shall contain a statement of the
16 condition and work of the bureau, of its annual accumulations of
17 historical and other material, and a statement of receipts and
18 expenditures, accompanied by such recommendations as he deems
19 best for the state's interests in the said bureau.

Sec. 4. It shall be the duty of the secretary of state to de-
2 liver, when printed, biennially, at least sixty copies of all the bi-
3 ennial reports of state officials and of all boards of regents or di-
4 rectors of state institutions, to be exchanged for similar documents
5 of other states. The bureau shall also be furnished with copies
6 of all publications, which are printed at the expense of the state,
7 in numbers sufficient to enable the bureau to carry on a system
8 of exchanges with state libraries, and public information bureaus.
9 The library commission shall from time to time fix the number of
10 copies of such publications necessary to be used for purposes of ex-
11 change.

Sec. 5. For the purpose of carrying into effect the provis-
2 ions of this act, and of making the library of this bureau accessi-
3 ble to all the people of the state, there is hereby established for the

4 state of West Virginia a free library service. This service shall be
5 under the direction of a commission to be known as the library
6 commission, which shall be composed of the governor, the presi-
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7 dent of the West Virginia university, the state superintendent of
8 free schools and two citizens of the state, who shall be appointed
9 by the governor, one for a term of three years, and the other for a
10 term of six years from the first day of July, one thousand nine
11 hundred and fifteen, and all subsequent appointments shall be for
12 a term of six years, except appointments to fill vacancies, which
13 shall be made by the governor for the unexpired term. The mem-
14 bers of the commission shall serve without compensation, but shall
15 be reimbursed for actual expenses incurred in the performance
16 of their official duties. Expense accounts shall be certified by
17 the chairman of the commission, and paid out of the funds appro-
18 priated for the use and maintenance of the bureau of archives
19 and history and the free library service.

Sec. 6. The state historian and archivist shall be *ex-officio*
2 secretary of the library commission. It shall be his duty to keep
3 a record of the meetings of the commission, to keep accurate ac-
4 count of its financial transactions, to act under the direction of
5 the commission in supervising the work of traveling libraries, in
5-a organizing new libraries and in aiding those already established,
6 and, in general, to perform such other duties as may be assigned
7 to him by the commission. The commission shall fix the com-
8 pensation of the state historian and archivist and of such assist-
9 ants as the commission may employ in the management of the
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10 bureau of archives and history and the free library service. The
11 secretary and assistants shall be reimbursed for actual and neces-
12 sary traveling expenses incurred in the performance of their offi-
13 cial duties, and their expense accounts shall be paid as in the case
14 of members of the commission.

Sec. 7. The commission shall hold its meetings in Charles-
2 ton, at the office of the state bureau of archives and history. At
3 the first meeting, which shall be held at the call of the governor
4 of the state in the month of July, one thousand nine hundred and
5 fifteen, the commission shall organize by electing a chairman from
6 among the members thereof for a term of one year. Subsequent
7 meetings shall be held in accordance with such rules as the com-
8 mission may adopt.

Sec. 8. The purpose of the library commission shall be to
2 make existing collections of books in the state more available for
3 library purposes; to promote the establishment and efficiency of
4 public libraries in West Virginia, and to encourage the circula-
5 tion and reading of good books. To this end it shall furnish in-
6 formation and give assistance to existing libraries of a public na-
7 ture; it shall aid communities in establishing local libraries and
8 school libraries at suitable points and in securing a proper co-
9 ordination of all local and school libraries with the free library
10 service of the state; it shall have general supervision of all libra-
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11 ries maintained wholly or in part by state appropriations; it
12 shall have full control of the bureau of archives and history, and
13 shall conduct the library of the same as the center and clearing
14 house of the library activities of the state; it shall purchase and
15 maintain traveling libraries; it shall maintain at Charleston a
16 legislative reference and public affairs information service; it
17 shall co-operate with state institutions and with other states in
18 the exchange of books and other printed matter; and it shall per-
19 form such other service in behalf of public libraries as may be
20 for the best interests of the state.

Sec. 9. The library commission shall have authority to
2 make all necessary rules for the administration of the traveling
3 library system, to prescribe and fix the amount of fees to be charg-
4 ed for covering necessary expenses of operations of such system
5 in whole or in part, and to establish rules for the collection of
6 fines and penalties necessary for the protection of the state's prop-
7 erty employed in such traveling library system and free library
8 service.

Sec. 10. The commission shall obtain, as far as possible, an-
2 nual reports from all public libraries in the state, and shall make
3 biennial reports to the governor on library conditions and pro-
4 gress in the state, and the report shall contain an itemized finan-
5 cial statement showing all receipts and expenditures of the com-
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6 mission. The first of said biennial reports shall be made as soon
7 as possible after June thirtieth, one thousand nine hundred and
8 sixteen. Said reports shall be printed in the same manner and
9 under the same regulations as the reports of other state commis-
10 sions and executive officers.

Sec. 11. The library commission shall disburse, in carry-

ing out the purposes of this act, such moneys as may be appropriated by the legislature for the use and maintenance of the bureau of archives and history, and the free library service, and such other moneys as may accrue from the collection of fines and fees, and from other sources. It shall be the duty of the auditor of the state, upon the presentation of accounts properly certified by the person designated by the library commission to make such certification, to draw his warrants for the payment thereof upon the treasurer of the state, not to exceed any amounts appropriated by the legislature for the use and maintenance of the bureau of archives and history, and the free library service hereinbefore provided for.

Sec. 12. All acts and parts of acts inconsistent with this act are hereby repealed.

Senate Bill No. 96

[BY MR. ROSENBLOOM.]

Introduced January 19, 1915. Referred to the Committee on Labor; January 26, reported back with the recommendation that it do pass; rules suspended, taken up out of its order for immediate consideration, read a first time and ordered to a second reading. February 2, read a second time and ordered to a third reading.

A BILL to provide for the partial support of mothers who husbands are dead, or have become permanently incapacitated for work by reason of physical or mental infirmity, or confined in some West Virginia state institution; or abandoned mothers, when such mothers have children under fifteen years of age, and are citizens of the United States of America and residents of this state for three years previous to the time at which application for relief is made, and *bona fide* residents of the county where the same is applied for, and also to provide for the probationary visitation, care and supervision of the family for whose benefit such support is provided.

Be it enacted by the Legislature of West Virginia:

Jurisdiction.

Sec. 1. The county court in the several counties in the

2 state shall have original jurisdiction in all cases coming within
3 the terms of this act.

Application for Relief.

Sec. 2. A woman whose husband is dead or whose husband
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2 has become permanently incapacitated for work by reason of phys-
3 ical or mental infirmity, or confined in some West Virginia state
4 institution, or has been abandoned, may file an application for
5 relief under this act, *provided* such woman is a citizen of the
6 United States of America, and has a previous residence for three
7 years in this state, and is the mother of a child or children under
8 the age of fifteen years.

Official Investigation and Report.

Sec. 3. Whenever an application for relief is filed, the home
2 of the applicant shall be visited by a member of the court hav-
3 ing jurisdiction of the matter, and the facts set forth in such
4 application shall be investigated by such member under the di-
5 rection of the court, and a report and recommendation of the
6 approval or disapproval of such application shall be made in writ-
7 ing by such member of the court without any unnecessary delay.

Petition, Form of.

Sec. 4. After the investigation of such application for re-
2 lief by a member of the court and the filing of the report and
3 recommendation thereon, such member of the court, or any rep-
4 utable and responsible person who has a residence in the county,
5 may file with the clerk of the county court a petition in writing,
6 duly verified by affidavit, setting forth such facts as are neces-
7 sary under this act to give the court jurisdiction of the parties
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8 and of the subject matter, and setting forth such other facts,
9 which, when found by the court to be true, shall be the basis upon
10 which the order of relief is entered. It shall be sufficient that
11 the affidavit is upon knowledge, information and belief. A sepa-
12 rate petition shall be filed for each child. The mother of such
13 child or children and the county court of the county in which
14 the petition is filed shall be made parties respondent to such peti-
15 tion.

Summons.

Sec. 5. Upon the filing of such petition a summons return-

2 able not less than three days nor more than ten days after the
 3 date thereof shall issue to the respondent named in such peti-
 4 tion requiring the mother with such child or children and all
 5 the respondents to appear at a place and time stated in the sum-
 6 mons, which time shall be on the return day of such summons.

Service.

Sec. 6. Service of summons shall be made in the same man-
 2 ner as is provided for the service of a summons as in other mat-
 3 ters in which the county court has jurisdiction, and the fees
 4 therefor may be paid by the county court out of the fund here-
 5 inafter provided for. The clerks of the county courts shall per-
 6 form any duties required of them by this act, without additional
 7 compensation; and the prosecuting attorney of each county shall

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8 give to the court all legal advisement in matters coming within
 9 the purview of this act, without receiving any fees therefor.

New Process.

Sec. 7. Whenever process shall not be returned executed on
 2 or before the return day thereof, the court may direct the clerk
 3 to issue an *alias*, *pluries* or other process, returnable at a time
 4 ordered by the court.

Appearance; Hearing.

Sec. 8. The filing of a written appearance by a respondent
 2 shall render the service of summons on such respondent unneces-
 3 sary. The court shall proceed to hear the cause upon the return
 4 day of the summons or upon a day thereafter to be fixed by the
 5 court, without the formality of the respondents filing answers;
 6 *provided*, all the respondents have either been served with sum-
 7 mons or have filed their written appearance in said cause.

Hearing; Order of Payment; Duty of County Court.

Sec. 9. Upon the hearing in court of a petition under this
 2 act, the court, being fully advised in the premises, finding the
 3 facts alleged in the petition to be true, may make an order to
 4 pay the mother of the child or children in whose behalf the pe-
 5 tition or petitions are filed an amount of money necessary to en-
 6 able such mother to properly care for such child or children. It,
 7 thereupon, shall be the duty of the county court to pay to such
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8 mother, at such times as said order may designate, the amount

9 so specified for the care of such child or children until the further
10 order of the court. Such payments shall be made by order drawn
11 by the court on the sheriff, payable out of the fund hereinafter
12 provided for.

Amount of Allowance.

Sec. 10. The allowance made to such mother shall not ex-
2 ceed fifteen dollars per month when such mother has but one
3 child under the age of fifteen years, and if she has more than
4 one child under such age, the relief granted shall not exceed
5 five dollars per month for each of the other children; *provided*,
6 that in no event shall the relief granted for any one mother and
7 children exceed the sum of thirty-five dollars per month.

Conditions Upon Which Relief is Granted.

Sec. 11. Such relief shall be granted by the court only upon
2 the following conditions:

3 (1) The child or children for whose benefit the relief is grant-
4 ed must be living with the mother of such child or children; (2),
5 the court must find that it is for the welfare of such child or chil-
6 dren to remain at home with the mother; (3), the relief shall be
7 granted only when in the absence of such relief the mother would be
8 required to work regularly away from her home and children, and
9 when, by means of such relief she will be able to remain at home

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10 with her children; except that she may be absent for work a defi-
11 nite number of days each week to be specified in the court's order.
12 when such work can be done by her without the sacrifice of
13 health, or the neglect of home and children; (4), such mother
14 must, in the judgment of the court, be a proper person physically,
15 mentally and morally, to bring up her children; (5), the relief
16 granted shall, in the judgment of the court, be necessary to save
17 the child or children from neglect; (6), a mother shall not re-
18 ceive such relief who is the owner of real estate or personal prop-
19 erty other than the household goods, or receives benefits from
20 the workmen's compensation fund; (7), a mother shall not re-
21 ceive such relief who is not a citizen of this country, and who has
22 not resided in the state at least three years, and is not a *bona fide*
23 resident of the county in which application is made; (8), a
24 mother shall not receive such relief if her child or children have
25 relatives who contribute to their support an amount equal to what

26 might be allowed under this act; (9), satisfactory reports must
 27 be given by teacher in the district school stating that the child
 28 or children of the recipient of this fund are attending school,
 29 provided they are of proper age, and physically able to do so.

Relief for Child Between Fifteen and Sixteen Years.

Sec. 12. Whenever any child shall arrive at the age of fif-
 2 teen years, any relief granted to the mother for such child shall
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3 cease; *provided*, if a child of fifteen years of age be ill or incapaci-
 4 tated for work, the mother shall receive funds for his or her
 5 care during such illness or incapacity for work until such child
 6 is sixteen years of age, not to exceed, however, the amount here-
 7 inbefore provided. The court may, in its discretion, at any time
 8 before such child reaches the age of fifteen years, modify or vacate
 9 the order granting relief to any mother and for any child.

Presence of Husband.

Sec. 13. Whenever relief is granted, or is about to be grant-
 2 ed, to a mother whose husband is permanently incapacitated for
 3 work, by reason of physical or mental infirmity, and the presence
 4 of such husband in the family is a menace to the physical and
 5 moral welfare of the mother or children, then the court may re-
 6 quire that such husband be removed from the home and provision
 7 for his care made elsewhere; or failing to remove such husband,
 8 or upon his refusal to be separated from his family, the court
 9 may, in its discretion, vacate the order granting relief, or refuse
 10 the relief asked for.

Sec. 16. The county court in each county may, in its dis-
 2 cretion, levy a tax of not to exceed three-tenths of one mill on the
 3 dollar, annually on the taxable property in the county. Such tax
 4 to be levied and collected in like manner with the general taxes
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 5 of the county, and to be known as a mother' pension fund tax.

Partial Relief.

Sec. 17. Should the fund herein authorized be sufficient to
 2 permit an allowance to only a part of the mothers coming within
 3 the provisions of this act, the court shall select, in its discretion,
 4 those in most urgent need of such allowance.

Penalty for Fraud.

Sec. 18. Any person or persons fraudulently attempting to

2 obtain or fraudulently obtaining, any allowance for relief under
3 this act shall be deemed guilty of a misdemeanor, and on conviction
4 thereof shall be punished by a fine of not less than five dollars
5 nor more than two hundred dollars, and imprisonment in the
6 county jail for a period of not to exceed six months.

Repeal.

Sec. 19. All acts or parts of acts inconsistent herewith are
2 hereby repealed.

Senate Bill No. 43

[BY MR. GREGORY.]

Introduced January 18, 1915. Referred to the Committee on the
Judiciary. January 27, reported back with the recommendation that
it do pass. January 29, taken up in regular order, read a first time
and ordered to a second reading; February 4, read a second time and
ordered to a third reading.

A BILL to prevent and punish fraud in sales of goods, wares and
merchandise at public or private sale by itinerant vendors, and
to regulate all such sales.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the words "itinerant vendor", for the purpose
2 of this act shall mean and include all persons, firms, or corpora-
3 tions, both principals and agents, who engage or conduct within
4 this state, either in one locality, or in traveling from place to
5 place, a temporary or transient business of selling goods, wares
6 and merchandise; and who, for the purpose of carrying on such
7 business, use, lease or occupy either in whole or in part, a room,
8 building or other structure for the exhibition and sale of such
9 goods, wares and merchandise; and the person, firm or corpora-
10 tion so engaged shall not be relieved from the provisions of this
11 act by reason of association temporarily with any local dealer,
12 trader, merchant or auctioneer, or by conducting such temporary
13 or transient business in connection with or as part of the business
14 of, or in the name of, any local dealer, trader, merchant or auc-
15 tioneer. The provisions of this act shall not apply to sales made

16 to persons by commercial travelers, or selling agents in the usual
17 course of business, nor to *bona fide* sales of goods, wares or mer-
18 chandise for future delivery; nor to hawkers or peddlers in the
19 streets, roads or highways, from packs or vehicles; nor to persons
20 selling meat of the products of the farm, garden or dairy, nor to
21 any sales of goods, wares or merchandise on the grounds of any
22 agricultural association during the continuance of any annual fair
23 held by such association; nor to any sales by societies acting for
24 charitable, religious or public purposes; nor to judicial sales di-
25 rected by law, or under the orders of any court; nor to the sales
26 of the common necessities of life in any public market place.

Sec. 2. No itinerant vendor shall advertise, represent or hold
2 forth a sale of goods, wares or merchandise as a bankrupt, insol-
3 vent, assignee, trustee, estate, executor, administrator, receiver,
4 attorney, manufacturers', wholesale, or closing-out sale, or a sale
5 of any goods damaged by smoke, fire, water or otherwise, unless,
6 before so doing, he shall state in writing, under oath, to the clerk
7 of the county in which such business is proposed to be conducted
8 at the time he makes application for a license, hereinafter pro-
9 vided for, all the facts relating to the reason and character of
10 such special sale so advertised, held forth, or represented, includ-
11 ing a statement of the names of the persons from whom said
12 goods, wares or merchandise were purchased, and the date of the
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13 delivery of the same to the person applying for license; the place,
14 if any, where said goods, wares or merchandise were previously
15 exposed for sale, and such details as are necessary to exactly lo-
16 cate and fully identify all such goods, wares and merchandise
17 proposed to be sold. And such itinerant vendor shall also include
18 in the said statement the names and residence of the owner or
19 owners in whose interest the business is conducted, to be kept on
20 file in the office of the said clerk of the county court, and a record
21 shall be kept by said clerk of all such statements, in convenient
22 form and open to public inspection.

Sec. 3. Every itinerant vender desiring to do business with-
2 in this state shall deposit with the said clerk of the county court
3 the sum of five hundred dollars, as a special deposit, before a li-
4 cense shall be issued to him, as hereinafter provided, authorizing
5 him to do business in this state, in conformity with the provis-
6 ions of this act. Said deposit shall be held by the said clerk for

7 a period of thirty days after such itinerant vendor ceases to do
8 business within this state, and after satisfying all claims which
9 shall be made against him under the next following section here-
10 of, shall return such deposit or such portion thereof as remains
1 in his hands to the said itinerant vendor who deposited the same.

Sec. 4. The deposits so made with the said clerk shall be
2 subject to attachment and execution on behalf of creditors whose
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3 claims arise in connection with the business conducted within this
4 state, and to the payment of fines and penalties incurred by such
5 itinerant vender in violation of this act as may be fixed by the
6 judgment of appropriate courts having jurisdiction thereof; as
7 well as for any unpaid taxes assessed, laid or charged, by any
8 proper authorities, upon such goods, wares and merchandise, and
9 the said deposit or any remaining portion thereof shall not be paid
10 to such itinerant vender until all outstanding claims or notices of
11 claims presented within thirty days after he ceases to do business,
2 are settled in full.

Sec. 5. On every license to carry on such business as is here-
2 in contemplated, there shall be assessed an annual license tax of
3 five hundred dollars, and such license shall be applied for and is-
4 sued, and such license tax shall be assessed and collected in the
5 same manner that other licenses and license taxes are, under the
6 provisions of chapter thirty-two of the code of West Virginia, and
7 any acts amendatory thereof, and applicable hereto; *provided*,
9 shall be assessed for any period of less than one year.

Sec. 6. Every itinerant vender who sells or exhibits for sale
2 at public or private sale, any goods, wares and merchandise with-
3 out first obtaining a license therefor, and in all other respects
4 complying with the provisions of this act, or who makes any false
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5 statement in reference to the matter set out in the second section
6 of this act, or who fails to comply with the requirements of any
7 of the sections of this act, and every person, whether principal or
8 agent, who, by circular, hand-bill, newspaper, or in any manner
9 advertises such sale, as herein described, before proper licenses
10 are issued to the vender, and before he has complied with the pro-
11 visions of this act, shall be guilty of a violation of this act, and
12 shall be punished accordingly, by a fine of not less than twenty-
13 five dollars, nor more than one hundred dollars; and each day
14 that any violation hereof shall continue shall be deemed to con-

15 stitute a separate offense, and be punishable hereunder accord-
16 ingly.

Sec. 7. All acts or parts of acts inconsistent with the pro-
2 visions herewith are hereby repealed.

Senate Bill No. 360

[BY MR. WHITE.]

Introduced February 25; rules suspended; up for immediate con-
sideration; read a first time and ordered to second reading.

A BILL to amend and re-enact section twenty-four of chapter fifty-
four of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section twenty-four of chapter fifty-four of the code of West
Virginia be amended and re-enacted so as to read as follows:

Every resident domestic corporation, heretofore chartered
2 under the laws of the state of West Virginia, shall, within sixty
3 (60) days after this act takes effect, by power of attorney duly
4 executed, appoint the auditor of the state of West Virginia to
5 accept service on behalf of said corporation and upon whom service
6 may be had of any process or notice; said power of attorney shall
7 be filed in the office of the state auditor and there shall be paid
8 for such recordation the sum of three (\$3.00) dollars, in addition
9 to the annual fee of five (\$5.00) dollars, which the auditor shall
10 collect on each July first, at the time the license tax on each
11 corporation is collected.

12 Every resident domestic corporation, at the time of securing
13 charter, shall pay to the secretary of state a fee of three (\$3.00)
14 dollars for filing the power of attorney aforesaid, in addition to

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15 paying it pro rata attorney fee to the beginning of the next license
16 tax year. *Provided, however,* that during the months of July,
17 August and September, the corporation shall pay its full fee of
18 five (\$5.00) dollars, and after the month of September, every
19 such corporation, as a condition precedent to obtaining charter,
20 and in addition to paying the three (\$3.00) dollar fee for filing
21 the power of attorney, shall pay to the secretary of state fifty
22 (50c) cents for each month remaining in the license tax year.

23 The post office address of such corporation shall be filed with

24 the power of attorney and there shall be filed with the auditor
25 from time to time statements of any change of address of said cor-
26 poration. Immediately after being served with, or accepting, any
27 such process or notice, the auditor shall make and filed with said
28 power of attorney a copy of such process or notice, with a note
29 thereon endorsed of the time of service or acceptance, as the case
30 may be, and transmit such process or notice, by registered mail,
31 to such corporation at the address last furnished, as aforesaid,
32 but no such process or notice shall be served on the auditor or
33 accepted by him less than ten (10) days before the return there-
34 for.

35 In addition to the auditor, any such corporation may desig-
36 nate any other person in this state as its attorney in fact, upon
37 whom service of process or notice may be made, or who may ac-
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38 cept such service; and when such additional attorney is appointed,
39 process in any suit or proceeding may be served on him to the same
40 effect as if the same were served on the auditor.

41 All fees received by the secretary of state or auditor, under
42 the provisions of this bill, shall be turned into the state treasury,
43 in accordance with law.

44 All acts or parts of acts inconsistent herewith are hereby
45 repealed.

Senate Bill No. 267

[By Mr. McCLUNG.]

Introduced February 2, 1915. Reference to a Committee dispensed with; rules suspended, taken up for immediate consideration, read a first time, and ordered to a second reading.

A BILL to amend and re-enact sections one, three and four of chapter twenty-six of the acts of the legislature of West Virginia, of one thousand nine hundred and eleven, relating to establishing a county high school in Nicholas county; and by adding one section to said chapter to be known as section nine.

Be it enacted by the Legislature of West Virginia:

That sections one, three and four of chapter twenty-six the acts of the legislature of one thousand nine hundred and nine,

be amended and re-enacted: and that one additional section be added to said chapter, to be known as section nine, which amended sections and added section shall read as follows:

Sec. 1. That a high school be and the same is hereby established
2 in the county of Nicholas, state of West Virginia, in or near the
3 town of Summersville, which shall be known as the Nicholas county
4 high school, the site for which is to be selected by the board of
5 directors of said school, which said board of directors shall, after
6 the first day of July, one thousand nine hundred and fifteen,
7 consist of three members, as follows: The present elective member,
8 whose term expires on the thirtieth day of June, one thousand nine

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9 hundred and seventeen, and whose successor shall be elected at the
10 general election in the year one thousand nine hundred and six-
11 teen, and every four years thereafter, and whose term of office shall
12 commence on the first day of July following said election, and
13 continue for four years and until his successor is elected and
14 qualified. The county superintendent of schools of said county
15 shall be *ex-officio* a member and president of said board of direc-
16 tors. The other member of said board of directors shall be
17 appointed by the state superintendent of free schools of this state,
18 for a term of four years, beginning on the first day of July, one
19 thousand nine hundred and fifteen, and every four years there-
20 after, which said member shall be a resident and taxpayer of said
21 county; and shall, in the opinion of the state superintendent of free
22 schools, be a person properly trained and equipped for discharging
23 the duties of such director.

Sec. 3. Said board of directors shall be a body corporate, by the
2 name of the "Nicholas County High School," and as such may sue
3 and be sued, and shall receive, hold and dispose of, according to the
4 usual form of law and the intent of the instrument conferring titles,
5 all gifts, grants or devises made for the use of such high school, and
7 school, and shall be liable for all claims which may legally exist
6 shall be deemed the owner of all property belonging to said high
8 against it.

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Sec. 4. Said board of directors is hereby authorized for each
year hereafter to lay a levy of ten cents on the one hundred dollars of
taxable property in said county as ascertained by the last preceding
assessment for state and county purposes, for the purpose of procuring
proper grounds, erecting and equipping suitable buildings thereon for

said high school, for grading grounds, laying sidewalks and for any purpose of carrying on and maintaining said high school.

Sec. 9. On and after the first day of July, one thousand nine hundred and fifteen, the independent district of Richwood, in said Nicholas county, shall be exempt from taxation for the purpose of carrying on and maintaining said Nicholas county high school; *provided*, that said independent district shall maintain its own high school, and after said date the assessor of Nicholas county shall not extend the levy for "county high school" against any assessment of property in said independent district of Richwood, if a high school is maintained therein.

All acts and parts of acts not consistent herewith are hereby repealed.

Senate Bill No. 80

[BY MR. GOODYKOONTZ.]

Introduced January 23, 1915—Referred to the Committee on Finance. January 28, reported back with the recommendation that it do pass; January 29, taken up in regular order, read the first time and ordered to a second reading.

A BILL relating to the payment of appropriations for officers, commissioners, boards or institutions not having an office at the state capital.

Be it enacted by the Legislature of West Virginia:

Sec. 1. All appropriations now or hereafter made for officers, commissions, boards or institutions, public or private, not having an office at the state capital shall be expended on requisitions of such officer, commission, board or institution, after approval by the state board of control. Nothing herein shall be construed to affect any provision of chapter fifty-eight of the acts of one thousand nine hundred and nine, nor to include any institution whose management and control is now vested by law in the state board of control.

Sec. 2. This act shall go into effect July first, one thousand nine hundred and fifteen.

Sec. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Senate Bill No. 53

[BY MR. PARRISH.]

Introduced January 18, 1915.—Referred to the Committee on Immigration and Agriculture. January 22, reported back with the recommendation that it do pass. January 23, taken up in regular order for consideration, read a first time, and ordered to a second reading; January 29, read a second time, amended and ordered to its third reading.

“A BILL to revive, amend and re-enact section twenty-eight of chapter thirty-nine of the code of West Virginia, permitting county courts to aid county agricultural organizations in the employment of county agricultural agents.”

Be it enacted by the Legislature of West Virginia:

That section twenty-eight of chapter thirty-nine of the code of West Virginia be revived, amended and re-enacted so as to read as follows:

Sec. 28. Whenever a county agricultural organization with 2 not less than fifty members, files with the county court of the 3 county a memorandum of understanding with the agricultural extension department of the college of agriculture, West Virginia 5 university, guaranteeing the payment by said county organization 6 of the field and office expenses of a county agent or agents to the 7 end of the next succeeding fiscal year, then the county court of 8 such county is hereby authorized to levy for and may appropriate 9 from the general fund an amount not to exceed one and one-half 10 cents on the one hundred dollars' assessed valuation. The money so

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11 appropriated shall be used for the payment of part of the salary of 12 person or persons to encourage demonstrations of improved methods 13 on the farm and in the home and to give free advice and practical 14 instruction in agriculture and home economics in such county, 15 in co-operation with and under the supervision of the said agricultural extension department. Such person or persons so employed 16 shall be appointed by the agricultural extension department and 17 approved by the directors of the county agricultural organization 18 and the county court. All the moneys so appropriated shall be expended 19 upon orders of the county court as other county funds are 20 expended, and a duplicate of all salary vouchers shall be filed with 21 the said agricultural extension department in such form as will 22

23 comply with the provisions of the act of congress approved May
24 eighth, one thousand nine hundred and fourteen, known as the
25 Smith-Lever act; but no part of any money so appropriated shall be
26 used to compensate any representative of the West Virginia univer-
27 sity or any other person except the persons who may be employed
28 under this act. It shall be the duty of the agricultural extension
29 department to co-operate with each county court and county agri-
30 cultural organization raising or appropriating money under this
31 act. Any county court may co-operate with the county court of one
32 or more adjoining counties in carrying out the purposes of this act.

Senate Bill No. 357

[BY MR. COALTER.]

Introduced February 25; rules suspended; up for immediate consideration; read a first time and ordered to second reading.

A Bill to amend and re-enact serial section (1182) eleven hundred and eighty-two of the code of one thousand nine hundred and thirteen relating to the assessment of taxes for state and state school purposes.

Be it enacted by the Legislature of West Virginia:

That serial section eleven hundred and eighty-two be amended and re-enacted so as to read as follows:

Section 1182. On all real and personal property not exempt from taxation, for the year one thousand nine hundred and fifteen, and each year thereafter, not to exceed 20 cents on the one hundred dollars valuation, for state and state school taxes, shall be imposed upon real and personal property; *provided*, that the board of public works for the year nineteen hundred and fifteen, and thereafter, may reduce and fix the amount of the levy for state and state school purposes to any amount not less than one cent on each one hundred dollars valuation; and *provided, further*, that said board, in its discretion, for the year nineteen hundred and fifteen and thereafter, may levy the whole of twenty cents for state purposes, or may apportion the said twenty cents levy to the state school fund. *Provided, further*,

14 that the amount apportioned to the distributable school fund

15 from all sources shall not be less than seven hundred and fifty
16 thousand dollars annually.

17 Any act of the board of public works in fixing the levy
18 shall be certified by the president and secretary of said board to
19 the clerk of the county court, the assessor and the sheriff of
20 every county not later than the first day of August of the year
21 for which said levy is to apply; and it shall be the duty of said
22 officers to extend the levy so fixed by the board of public works
23 on the personal property books and the land books of their county.

24 All acts and parts of act inconsistent with the provisions
25 of this act are hereby repealed.

Senate Bill No. 181

[BY MR. GOODYKOONTZ.]

Introduced January 23, 1915—Referred to the Committee on Finance. January 26, reported back with the recommendation that it do pass. January 29, taken up in regular order, read the first time and ordered to a second reading.

A BILL relating to payment of moneys into the state treasury and making appropriations of moneys paid in.

Be it enacted by the Legislature of West Virginia:

Sec. 1. All moneys received by state officers, commissions and boards from any source shall be paid into the state treasury at least once each month. All of said moneys which are by law authorized to be expended by said officers, commissions and boards, and all moneys paid into the state treasury through the state board of control, are hereby appropriated out of the treasury. The appropriations herein made shall be drawn from the treasury upon the requisitions of the proper officer, or officers, made upon the auditor at such times and in such amounts as are needed for the purposes of any of the institutions, officers, commissions and boards for which such moneys are received. But no moneys received on account of one institution, commission, officer or fund, shall be used for any other institution, commission, officer, or fund, or contrary to a specific requirement of law. All moneys on hand and received by state officers, commissions or boards not having

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15 an office at the state capital, shall be paid into the state treasury
16 through the state board of control.

Sec. 2. This act shall go into effect July first, one thousand
2 nine hundred and fifteen. Section five hundred and forty-eight of
3 the code of one thousand nine hundred and six, shall not apply to
4 this act.

Sec. 3. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

Senate Bill No. 309

AN ACT authorizing and empowering the state board of control to
grant to the city of Weston, in the county of Lewis, in this state,
an easement or right of way upon and over a parcel or strip of
land owned by this state in said city, for the use of said city for
public street and sidewalk purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. The state board of control is hereby authorized and
2 empowered to grant to the city of Weston, in the county of Lewis,
3 in this state, by proper and apt deed, upon the terms and condi-
4 tions herein named, an easement or right of way upon and over a
5 certain strip or parcel of land in said city and owned by the state,
6 for the use of said city for public street and sidewalk purposes,
7 including the right in said city to grant franchise over, through
8 and upon said strip or parcel of land for water, light, gas, elec-
9 tric railroad and other public utility purposes, in order to en-
10 able said city to extend Mulberry avenue, in what is commonly
11 known as West Weston of said city, in a continuous straight line,
12 beginning at State street in said city and extending for a width of

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13 fifty feet through the said land of the state a distance of
14 six hundred and fifty (650) feet to the middle of the West Fork
15 river. Said parcel of land is a part of the lot or premises on which
16 are located the buildings of the West Virginia hospital for the
17 insane, and is more particularly described as follows: Beginning
18 at the present terminus of Mulberry avenue at State street and
19 extending for the full width of fifty feet north sixty
20 degrees east six hundred and fifty feet to the middle of said

21 West Fork river; which extension of said Mulberry avenue and
22 description of said strip of land are shown and designated upon a
23 map or blue print made by D. D. Britt, city engineer of said city
24 of Weston, in the month of January, one thousand nine hundred
25 and fifteen, marked on the face thereof "City of Weston Proposed
26 Extension of Mulberry Avenue through the grounds of the West
27 Virginia State Hospital", which map or blue print is filed with
28 the state board of control, and a copy thereof with the clerk of
29 the House of Delegates.

Sec. 2. The terms and conditions of said grant, all which
2 shall be set forth in the deed, are as follows:

3 (1). The said city of Weston shall accept said grant, and
4 agree to the terms and conditions thereof, by an ordinance of the
5 common council thereof duly passed, and entered of record upon
6 its book of proceedings, which ordinance shall contain and recite
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7 the said deed of the state board of control, within three months
8 after the date of said deed;

9 (2). The said city shall permanently pave the said new
10 street in a proper and substantial manner with concrete, brick or
11 other suitable material, in the judgment of the state board of con-
12 trol, and subject to its approval, and maintain the same in good
13 condition, for the said full width of fifty feet, beginning at
14 said State street and extending to the right of way of the Balti-
15 more and Ohio Railroad Company, or as near to said right of way
16 as the state board of control may require, a distance of approxi-
17 mately three hundred and eighty-eight feet; and shall also con-
18 struct and maintain a permanent sidewalk of not less than six
19 feet in width, of concrete, brick or other suitable material, in the
20 judgment of the state board of control, and subject to its ap-
21 proval, along the front of the grounds of said hospital, from the
22 intersection of said proposed extension of said Mulberry avenue
23 with the fence in front of said hospital, between the said fence
24 and the right of way of the Baltimore and Ohio Railroad Com-
25 pany, as may be designated by the state board of control, to what
26 is comonly known as the front gate of the said hospital, a dis-
27 tance of approximately three hundred and fifty feet;

28 (3). In making said street through the said described strip
29 of land the grade thereof shall not be arised farther than is neces-

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30 sary, and approved by the state board of contorl, above the pres-

ent surface of said ground; and where said street shall cross the hollow or depression in the grounds of said hospital, there shall be put in by the said city a permanent and proper culvert, of sufficient size to carry off all water that will likely collect above the said proposed street, in such manner as shall be satisfactory to the state board of control, and shall maintain such culvert in good condition;

(4) The said city shall construct a good and substantial iron fence, or fences, along both sides of said extension of Mulberry avenue through said strip of land, and provide gates in said fence or fences at such place or places as the state board of control shall designate, for the use of the state in crossing over said proposed new street, and for other purposes of the state; and after said fence or fences and gates are so constructed and provided, the state of West Virginia, or the governing body of the West Virginia hospital for insane, shall maintain the same;

(5). Said city, as a further condition of the granting of said strip of land, shall grant and convey to the state of West Virginia all of its right, title and interest in and to that part of the present county road, sometimes called River avenue, extending from a point on the eastern edge of the right of way of the Baltimore and Ohio Railroad Company in a line of the land of Enrolled S. B. No. 309]

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the state occupied by said hospital for the insane, to a point in said extension of Mulberry avenue, where such extension crosses the present county road or River avenue, which points of beginning and ending are marked on said map or blue print "E" and "F", respectively, so that that part of said present county road may be abandoned and closed up as a street or road, and be used by the state. And to that end, the said city will arrange with the county court of said Lewis county, if said court shall have any authority or jurisdiction in or over the same, for a change in the location of said county road, so that the same shall pass over said proposed extension of Mulberry avenue through said strip of land, from a point where the said county road intersects it to State street; *provided, however*, that in said grant and conveyance, and in said order abandoning said part of said River avenue or county road, there shall be reserved to the said city of Weston or to the said county of Lewis, in favor of the party or parties, to whom the same may have been granted, all rights and franchises heretofore granted by said city or county for water, gas, sewerage, light, tele-

71 phone or telegraph purposes, and now in use; and there shall be
72 further reserved in favor of said city the right and privilege of
73 said city itself to construct and maintain sewers, water, electric or
74 gas lines or utilities of like character, but not to include highways,
75 tramways or railroads of any kind, through, over and upon said

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76 part of said county road or river avenue, so to be abandoned as a
77 street or road;

78 (6). The state of West Virginia reserves for itself, the state
79 board of control, or other governing body of said state hospital,
80 the right to pass over and under said proposed street, to make
81 crossings over the same wherever it shall be convenient and nec-
82 essary; to put in gates, or other openings in the fences along said
83 new street wherever and whenever convenient and necessary; and
84 in general reserves all other rights in connection with said strip
85 of land which may not be necessary for the use of said city for the
86 purpose of said grant;

87 (7). The state board of control may, in said deed, prescribe
88 such other terms and conditions as in their judgment may be
89 proper or necessary; and the construction of said street through
90 said strip of land, the paving of said proposed street, the making
91 of the said sidewalk, and the work to be done generally and the
92 materials used shall be subject to the inspection and approval of
93 the state board of control.

Sec. 3. If the said city shall cease to use or abandon said
2 strip of land for public street and sidewalk purposes, or shall fail
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3 to carry out the terms and conditions of said grant, said land shall
4 revert to and revest in the state of West Virginia.

Senate Bill No. 118

[BY MR. KEIM.]

[Introduced January 20, 1915. Referred to the Committee on Labor.]

A BILL to amend and re-enact chapter sixty of the acts of the session of the year one thousand nine hundred and eleven relating to the employment of minors.

Be it enacted by the Legislature of West Virginia:

That chapter sixty of the acts of the legislature of the state of West Virginia of the session of the year one thousand nine hundred and eleven be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 1. No child under the age of fourteen years shall be employed, permitted or suffered to work in, about or in connection with any factory, mill, workshop, or manufacturing establishment, store, office, office building, restaurant, bakery, barber shop, hotel, club, bootblack stand or establishment, laundry, place of amusement, or in any telegraph or telephone office, or in the delivery or transmission of merchandise or mes-

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sages. No child under fourteen years of age shall be employed, permitted or suffered to work at any business or service whatever during the hours the public school of the district in which he resides are in session.

Sec. 2. No child under sixteen years of age shall be employed, permitted or suffered to work in, about, or in connection with any of the occupations named in section one for more than eight hours in any one day, nor more than forty-eight hours in any one week, nor more than six days in any one week, nor before the hour of seven o'clock in the morning nor after the hour of six o'clock in the evening of any day.

Sec. 3. No child under the age of sixteen years shall be employed, permitted or suffered to work in any of the following occupations or in any of the following positions: (1), adjusting any belt to any machinery; (2), oiling, wiping or cleaning machinery or assisting therein; (3), operating or assisting in operating any of the following machines: (a), circular or band saws; (b), wood shapers; (c), wood jointers; (d), planers; (e), sandpaper or wood polishing machinery; (f), wood turning or boring machinery; (g), boring or drilling machinery; (h), stamping machines used in sheet metal and tinware or in paper and leather manufacturing, or in washer and nut factories; (i), metal or paper cutting machines; (j), power punches or shears; S. B. No. 118]

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(k), or in proximity to any hazardous or unguarded belts, machinery or gearing. And no child under sixteen years shall be employed, permitted or suffered to work in any capacity, (a), in, about or in connection with any processes in which dangerous or

17 poisonous acids are used; (b), nor in the manufacture or packing
18 of paints, colors, white or red lead; (c), nor in soldering;
19 (d), nor in occupations causing dust in injurious quantities;
20 (e), nor in the manufacture or use of dangerous or poisonous
21 dyes; (f), nor in, about or in connection with any mine, coke
22 oven or quarry; (g), nor in assorting, manufacturing or packing
23 tobacco; (h), nor in a bowling alley; (i), nor in a pool or bil-
24 liard room; (j), nor in any occupation dangerous to the life or
25 limb, or injurious to the health or morals of such child; (k),
26 nor shall any child under the age of sixteen years be employed
27 upon the stage of any theatre or concert hall or in connection
28 with any theatrical performance or other exhibition or show.

Sec. 4. No child under the age of eighteen years shall
2 be employed, permitted or suffered to work; (a), in the outside
3 erection and repair of electric wires; (b), in the running or
4 management of elevators, lifts, or hoisting machines or dyna-
5 mos; (c), in oiling or cleaning machinery in motion; (d), in the
6 operating of emery wheels or any abrasive, polishing or buffing
7 wheels; (e), or as brakemen, firemen, engineers, motorman or
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8 conductors upon railroads; (f), or as railroad telegraph opera-
9 tors; (g), in or about establishments wherein nitroglycerine,
10 dynamite, doulin, gun-cotton, gunpowder or other high explo-
11 sives are manufactured, compounded or stored.

Sec. 5. No boy under the age of eighteen years and no
2 female shall be employed, permitted or suffered to work as a
3 messenger for telegraph, telephone or messenger companies in
4 the distribution, transmission or delivery of goods or messages
5 before five o'clock in the morning or after eight o'clock in the
6 evening of any day, in cities of 10,000 population and over.

Sec. 6. No child under sixteen years of age shall be em-
2 ployed, permitted or suffered to work in, about or in connection
3 with any of the establishments or occupations named in section
4 one of this act, unless the person, firm or corporation em-
5 ploying such child procures and keeps on file, accessible to
6 any truant officer, inspectors of factories or authorized agent
7 of the humane society, an employment certificate as herein pre-
8 scribed. On termination of employment of a child whose em-
9 ployment certificate is on file such certificate shall be forth-
10 with returned by the employers to the person who issued the
11 same. The employment certificate shall be issued only by the

12 superintendent of schools, or by persons authorized by him in
13 writing; or, where there is no superintendent of schools, then
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14 by a person authorized by the local school board; *provided*,
15 that no member of a school board or other person authorized
16 as aforesaid, shall have authority to issue such certificate to
17 any child then in or about to enter such person's own em-
18 ployment or the employment of a firm or corporation of which he
19 is a member, officer or employee. The person authorized to is-
20 sue an employment certificate shall not issue such certificate
21 until he has received, examined and approved and filed the fol-
22 lowing papers duly executed:

23 1. The school record of such child properly filled out and
24 signed by the principal or chief executive officer of the school
25 which such child has last attended, containing a statement certi-
26 fying that the child is able to read intelligently and write legibly
27 simple sentences in the English language and has completed a
28 course of study equivalent to that given in the first four grades
29 of the common schools. Such school record shall also give the
30 name, date of birth, place of residence, with the name of the
31 parent or guardian of such child as shown on the records of the
32 school.

33 2. A passport or duly attested transcript of the school
34 census showing the date and place of birth of such child.

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37 one of the above mentioned proofs of age is obtainable,) show-
38 ing the date and place of birth of such child. Such affidavit
39 must be taken before the officer issuing the employment certi-
40 ficate, who is hereby authorized and required to administer such
41 oath without demanding or receiving any fee therefor.

42 4. A written agreement of the person, firm or corporation
43 about to employ the child, describing the work the child will
44 be required to perform and agreeing on the termination of such
45 employment, to return forthwith the child's certificate to the
46 officer who issued the same.

47 No employment certificate shall be issued until the child
48 in question has personally appeared before the officer issuing
49 the certificate, nor until the officer has satisfied himself that
50 the child can read, and write legibly, simple sentences in the
51 English language, and that the child is fourteen years of age
52 or upwards, and has reached the normal development of a child

53 of its age, and is in sufficiently sound health, and physically able
54 to perform the work which it intends to do. In all cases of
55 doubt, such development, health and physical fitness shall be
56 determined by a medical officer of the board or department of
57 health, or by a physician appointed by the school board. Every
58 such employment certificate shall state the race, residence, sex and
59 the date and the place of birth of the child, and that the papers
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60 required by this section have been duly examined, approved and
61 filed. Every such certificate shall be signed in the presence of
62 the officer issuing the same by the child in whose name it is
63 issued, and it shall show the date of its issue. The employment
64 certificate and other papers required by this act must be formu-
65 lated by the state superintendent of free schools, and furnished
66 in blank by the clerk of the local school board.

67 Every employment certificate and every vacation permit
68 shall be made out in duplicate. All duplicates shall be sent to
69 the state bureau of labor between the first and tenth days of
70 each month.

Sec. 7. Vacation permits shall be issued by the person
2 authorized to issue employment certificates, to children between
3 fourteen and sixteen years of age, on satisfaction of the same
4 requirements, with the exception of the school record, as for the
5 regular employment certificates, and shall entitle their holders
6 to work in the occupations named in section one, during the sum-
7 mer school vacation. They shall be known as vacation permits,
8 shall be of different color from the employment certificates, and
9 shall state plainly the date after which they are void.

Sec. 8. An inspector of factories, truant officer, or
2 authorized agent of the humane society may make demand on any
3 employer in or about whose place or establishment a minor ap-

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4 parently under the age of sixteen years is employed, permitted
5 or suffered to work, that such employer shall either furnish him
6 within ten days documentary evidence of age as specified in sec-
7 tion 6, or shall cease to employ or permit or suffer such child to
8 work in such place or establishment.

Sec. 9. Before any operator or mine foreman employs, per-
2 mits, or suffers any boy over sixteen years of age to work in, about
3 or in connection with any mine, or coke oven, he shall first pro-
4 cure an affidavit from the parent, guardian or custodian of such

5 boy, stating the date and place of his birth. Such affidavit shall
6 be filled out in duplicate, and the duplicate forwarded forth-
7 with by such operator, agent or mine foreman to the district mine
8 inspector of the district in which said mine, or coke oven is
9 located. The original shall be kept on file in the office of the
10 mine foreman accessible to the district mine inspector, truant
11 officer or authorized agent of the humane society.

Sec. 10. No boy under the age of twelve years an no
2 girl under the age of eighteen years shall be employed, permitted
3 or suffered to work at any time in any city or town of 10,000 or
4 more inhabitants within this state in, or in connection with, the
5 street occupations of peddling, bootblackening, the distribution or
6 sale of newspapers, magazines, periodicals or circulars, nor in
7 any other occupation pursued in any street or public place. No
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8 boy between twelve and sixteen years of age shall be employed,
9 permitted or suffered to work at any time in any of the afore-
10 said occupations, unless he complies with all the requirements
11 of the compulsory school attendance law and wears conspicuously
12 upon his person while so engaged a numbered badge which shall
13 be issued to such boy only by the person authorized to issue em-
14 ployment certificates to children, upon receipt of documentary
15 proof of his age and a written recommendation from the school
16 attended by the boy that a badge be granted to him. No boy
17 between twelve and sixteen years of age shall be employed,
18 permitted or suffered to work in any of the aforesaid street
19 occupations before seven o'clock in the morning nor after seven
20 o'clock in the evening of any day. The local superintendent of
21 schools shall have the power to revoke any badge so issued if
22 further pursuit of any of the aforesaid occupations, in his opinion,
23 would interfere with the satisfactory progress of the boy at school,
24 or if the badge be used by any boy other than the one to whom it
25 was issued. All badges issued in the same calendar year shall be
26 of one color which shall be changed annually, and they shall be-
27 come void upon the first day of January of each year.

28 Any child who shall engage in any such street occupation in
29 violation of any of the provisions of this action shall be deemed
30 delinquent and shall be brought before any court or magistrate

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31 having jurisdiction over juvenile delinquents, and shall be dealt
32 with according to law. The truant or attendance officers of the

33 public schools, and the authorized agents of the humane society
34 shall enforce the provisions of this section. Whoever furnishes
35 or sells to any minor any article of any description, with the
36 knowledge that said minor intends to sell said article in viola-
37 tion of the provisions of this section, or shall continue to furnish
38 or sell articles of any description to a minor after having received
39 written notice from any officer charged with the enforcement of
40 this section, or from the officer issuing the badge required as
41 aforesaid, that said minor is unlicensed to sell such articles, shall
42 be punished by a fine of not less than fifteen dollars, nor more
43 than one hundred dollars for each offense.

Sec. 11. Whoever issues an employment certificate or a
2 vacation permit without having first examined, approved and
3 filed the papers specified in section six, or who has not caused the
4 child to appear personally before him, or who has not satisfied
5 himself that the child can read and write legibly, simple sen-
6 tences in the English language, and has reached the moral de-
7 velopment of a child of its age, and is in sufficiently sound health
8 and physically able to perform the work which it intends to do,
9 shall be deemed guilty of a misdemeanor, and upon conviction
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10 thereof, shall be fined not less than ten dollars, nor more than
11 fifty dollars for each offense.

Sec. 12. Whoever, whether he be the employer, parent,
2 guardian or custodian of any child, employs, permits or suffers
3 such child to be employed or to work in violation of any of the
4 provisions of this act, shall be deemed guilty of a misdemeanor,
5 and upon conviction thereof, shall be fined not less than ten
6 dollars nor more than fifty dollars for each and every offense.

Sec. 13. It shall be the duty of the prosecuting attorney
2 of each county, and of the state commissioner of labor (or of
3 the chief mine inspector where the law applies to mines) to en-
4 force the provisions of this act and to prosecute any person,
5 firm or corporation charged with the violation of the same be-
6 fore any magistrate or court of competent jurisdiction in this
7 state. It shall be the duty of the truant officers, factory inspec-
8 tors, mine inspectors, and authorized agents of the humane society
9 to expose all violations of this act to the prosecuting attorney,
10 and to the state commissioner of labor, (or to the chief mine
11 inspector). Truant officers and authorized agents of the humane
12 society shall have equal powers with factory and mine inspectors

13 to enter any place of employment mentioned in this act. All
14 fines collected for violation of this act shall be paid into the build-
15 ing fund of the school district or independent district in which
16 the offense is committed.

Senate Bill No. 72

[BY MR. GRAY.]

Introduced January 19, 1915. Referred to the Committee on
Education January 21, reported back with the recommendation that it
do pass. January 22, taken up in regular order for consideration,
read a first time, and ordered to a second reading.

A BILL to provide for the establishment and maintenance of normal
training departments in high schools and to authorize special
state aid therefor, the same to be section twenty-nine-a of chap-
ter forty-five of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

Sec. 29-a. Whenever in the judgment of any county high
2 school board or of any district or independent district board of
3 education in whose district a high school is maintained, it is ad-
4 visable to provide for the better training of the teachers in the
5 elementary schools of their county or district, such county high
6 school board, district board of education or independent district
7 board of education shall have the authority to establish and main-
8 tain a normal training department in connection with any high
9 school under their control, to provide necessary rooms, furniture,
10 equipment and supplies, and to employ teachers therefor; *provided*,
11 that not more than one such normal training department shall be
12 established in any county, and *provided, further*, that such normal
13 training department shall not be established in any county in which

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14 a state normal school or other state school maintaina g a normal
15 training course is located.

16 It shall be the duty of the state board of education to prescribe
17 a course of study for such normal training departments, to de-
18 termine the number and qualifications of teachers to be employed
19 therein, and to establish such other regulations and requirements
20 for their conduct as they may deem best; and when a normal train-
21 ing department has been established in any high school in ac-

22 cordance with the regulations and requirements of the state board
23 of education and has been approved by said board, such high school
24 shall be designated and known as a normal training high school.
25 The state board of education shall on or before the first day of
26 October annually report the number and location of high schools
27 approved by them as normal training high schools, to the state
28 superintendent of schools. Normal training high schools so ap-
29 proved shall be entitled to receive in addition to the state aid now
30 provided by law for classified high schools, the sum of four hundred
31 dollars annually, the same to be paid out of the appropriation for
32 classified high schools at the time and in the manner prescribed by
33 law, for the payment of state aid to classified high schools, and to
34 be used for the maintenance of normal training departments of
35 such high schools and for no other purpose; *provided, however,*
36 that not more than ten high schools in the state shall receive aid
37 as normal training high schools at one time.

Senate Bill No. 194

[BY MR. McCLUNG.]

Introduced January 2, 1915. Referred to the Committee on Immigration and Agriculture. February 2, reported back with the recommendation that it do pass; February 13, read a second time, ordered to its engrossment and third reading.

A BILL amending and re-enacting chapter 62-*b* of the code of West Virginia of nineteen hundred and six, providing for the collection and analysis of samples of commercial fertilizers, and regulating the sale of such fertilizers and other materials used for manurial purposes and providing penalty for violation thereof.

Be it enacted by the Legislature of West Virginia:

That chapter 62-*b* of the code of West Virginia of nineteen hundred and six is hereby amended and re-enacted so as to read as follows:

Section 1. For the purpose of this act, the term "fertilizer"
2 shall be held to mean any article, substance or mixture applied to
3 the soil for the purpose of increasing the productiveness thereof,
4 excepting only the dung of domestic animals when sold as such
5 without brand, name or trade mark; and the term "person" shall
6 be held to impart both the singular and plural and shall include

7 corporations, companies, societies and associations whether acting
8 through an agent or servant.

Sec. 2. Every person who shall offer or expose for sale or sell
2 in this state any fertilizer, shall, before the same is sold, offered or
3 exposed sale, file with the commissioner of agriculture an affidavit
4 clearly and truly setting forth the name, brand or trade mark un-
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5 der which the fertilizer is to be sold, the name of the manufacturer,
6 jobber or importer, the place of manufacture and the composition
7 of the fertilizer including the per centum of every constituent re-
8 lied upon as contributing to the value of the fertilizer, and the
9 materials from which said constituents are derived, said state-
10 ments as to materials shall be quantitative; *provided*, that when
11 the manufacturer, jobber or importer of any fertilizer shall file the
12 affidavit required by this section no agents or dealers selling the
13 same fertilizer for him under his name and brand shall be required
14 so to do; *provided*, that fertilizers in which phosphoric acid, pot-
15 ash or nitrogen is relied upon as contributing to the value of the
16 fertilizer and in which the sum total of the phosphoric acid, potash
17 and nitrogen in available form, is less than twelve per cent. and
18 complete fertilizer in which the nitrogen is present in smaller
19 quantities than 1.65 per cent. shall not be sold in this state, except
20 by the manufacturers thereof direct to consumers, for the exclusive
21 use of such consumers, and not for re-sale, but the same shall be
22 registered and the tax paid as provided in this act.

23 The affidavit required by this section shall be made annually,
24 but may be made at any time for the calendar year, and may be
25 filed in the month of December for the year following; *provided*,
26 *however*, that the guaranteed analysis for each and every brand of
27 fertilizer must, without exception, remain the same throughout the
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28 calendar year for which it is registered, and in no case, even at sub-
29 sequent registration, shall the grade of such brand be lowered.

Sec. 3. Every bag, barrel or other package of fertilizer sold,
2 offered or exposed for sale in this state, shall have securely and
3 conspicuously affixed thereto a label or tag on which shall be
4 printed the number of net pounds in the package, and a copy of
5 the affidavit required by section two of this act; the said labels
6 or tags shall be furnished in numbers of one hundred or multiple
7 thereof by the commissioner of agriculture at cost. Every person,
8 who shall offer or expose for sale, or sell in this state any fertilizer,

9 except lime, ground limestone and gypsum, shall pay to the com-
10 missioner of agriculture an inspection tax of forty cents on every
11 ton of fertilizer sold, offered or exposed for sale. The said inspec-
12 tion tax shall be paid at such times and in such manner as shall
13 be prescribed by the said commissioner of agriculture; *provided*,
14 *however*, that this act shall not apply to fertilizer substances and
15 materials sold to fertilizer manufacturers, to be prepared or treated
16 by them and resold.

Sec. 4. The commissioner of agriculture, in person or by dep-
2 uty, shall take samples of any fertilizers on sale in the state and
3 for this purpose is hereby authorized to enter during business
4 hours any store room or other place where fertilizers are sold, of-
5 fered or exposed for sale; the said commissioner shall cause the

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6 said samples to be analyzed according to methods of the associa-
7 tion of official agricultural chemists, official at the time and shall
8 publish the results; any purchaser of fertilizers within the state
9 may take a sample of the same in accordance with rules and regu-
10 lations of the commissioner of agriculture and if the said com-
11 missioner has reason to believe that the fertilizer is not as guaran-
12 ted in the affidavit, he shall cause the sample to be analyzed free
13 of charge and certify the results to the person forwarding the sam-
14 ple.

Sec. 5. The commissioner of agriculture shall promptly de-
2 posit with the treasurer of the state all moneys collected under
3 this act and shall draw upon the same as needed to meet all ex-
4 penses incurred on account of the requirements of this act, and
5 any money remaining after all of said expenses have been paid
6 shall be expended by the said commissioner in the discharge of his
7 duties in behalf of agriculture in this state; the said commissioner
8 shall seek to make the inspection of fertilizers hereby intrusted to
9 him as helpful as possible to the purchasers of fertilizers in this
10 state and is hereby authorized to make such rules and regulations
11 as may be necessary to carry into effect the full intent and meaning
12 of this act; the said commissioner shall report promptly to the
13 prosecuting attorney of the county in which the offense was com-
14 mitted, any violations of this act and all failures to comply there-
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15 with and a copy of any label, statement or tag required to be filed
16 with the said commissioner or prepared by him and any analysis
17 made or caused to be made by him when duly certified by the said

18 commissioner shall be admissible in evidence to the same extent
 19 as if it were his deposition taken in the manner prescribed by law
 20 for the taking of depositions, in any prosecution or suit for any
 21 violation of the provisions of this act.

22 Any manufacturer, dealer or agent who shall sell, offer or ex-
 23 pose for sale in this state any fertilizer without first having com-
 24 plied with the requirements of this act regarding such fertilizer,
 24-a or who shall use tax tags the second time, or any person who shall
 25 receive or remove any fertilizer without its having been registered,
 26 branded and tagged as required by this act, shall be guilty of
 27 misdemeanor and be subject to penalties prescribed under this act.

Sec. 6. Any person who shall violate any of the provisions
 2 of this act or who shall fail to comply therewith, shall be guilty
 3 of misdemeanor and on conviction thereof shall be fined not less
 4 than twenty dollars and not more than one hundred dollars for
 5 the first offense, and not less than fifty dollars and not more than
 6 five hundred dollars for each subsequent offense.

Sec. 7. All acts or parts of acts in conflict with this act are
 2 hereby repealed.

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Sec. 8. This act shall be in effect July first, one thousand
 2 nine hundred and fifteen.

Senate Bill No. 49

[BY MR. GREGORY.]

Introduced January 18, 1915. Referred to the Committee on the
 Judiciary. January 21, reported back with the recommendation that it
 do pass. January 22, taken up in regular order for consideration,
 read a first time, and ordered to a second reading.

A BILL to amend and re-enact section one hundred and twenty-
 nine of chapter eighty of the acts of one thousand nine hundred
 and seven, and to repeal section eighteen of chapter eighty of the
 said acts of one thousand nine hundred and seven.

Be it enacted by the Legislature of West Virginia:

Sec. 129. Any person claiming to be aggrieved by any entry
 2 in any land or personal property book of any county who shall not
 3 have been notified of his assessment, or who shall not have appeared
 4 and contested the same, as provided in section eighteen of this

5 chapter; and any person claiming to be aggrieved by the assessment
6 of a license tax in any county, may, within one year from the veri-
7 fication of such book, or within six months after the assessment
8 of such license tax, as the case may be, apply for relief to the
9 county court of the county in which such books are made out, and
10 in which such license tax is assessed. But he shall, before any such
11 application is heard, give ten days' notice to the prosecuting at-
12 torney of the county and state tax commissioner, whose duties
13 it shall be to attend to the interests of the state, county and dis-
14 trict, in the matter. If it appear on he hearing of such application

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15 that the value or the local description of any tract of land entered
16 in such land book is, by mistake or error, incorrectly entered there-
17 in, or that his property has been assessed at an improper valuation,
18 the court shall, by an order entered of record, correct any and every
19 such error or mistake and direct its clerk to furnish the assessor
20 with a copy of such order, and the said assessor shall enter the same
21 property in the next land book made out by him. A copy of any
22 such order, or orders, entered in any court making any such cor-
23 rection as is herein provided for, shall be made and certified to the
24 auditor by the clerk within twenty days after the entering of the
25 same; such application shall have precedence of all other business
26 before the court; but any order or judgment made upon such ap-
27 plication shall show that the prosecuting attorney and state tax
28 commissioner or his representative was present and defended the
29 interests of the state. In event it shall be ascertaind that the land
30 or personal property has been assessed too high, or is otherwise im-
31 properly assessed, and that the owner has paid the excess of such
32 taxes, or the taxes erroneously charged, it shall be refunded to him;
33 and if not paid, he shall be released from the payment thereof.
34 The right of appeal may be taken either by the applicant or by the
35 state, etc., and in case the applicant, by his agent or attorney, or the
36 state, by its prosecuting attorney or state tax commissioner, de-
37 sires to take an appeal, the party desiring to take such an appeal
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38 shall have the evidence taken at the hearing of such application
39 before the court certified, and such appeal when allowed by the
40 court or judge in vacation, shall have precedence over all other
41 cases pending in such court, and such appeal shall be determined
42 from the evidence so certified; if, upon the hearing of such appeal,
43 it is determined that any property has been assessed for more than

44 its true and actual value, the court shall, by an order entered of
 45 record, correct every such assessment, fixing such property at its
 46 true and actual value; a copy of such order or orders entered by
 47 the circuit court reducing the valuation of any assessment shall be
 48 certified to the auditor by the clerk within twenty days after the
 49 entering of same; every such order or judgment shall show that the
 50 prosecuting attorney or state tax commissioner was present and
 51 defended the interest of the state, county and district. In the
 52 event it shall be ascertained that any land or personal property has
 53 been assessed too high and that the owner has paid the excess tax,
 54 it shall be refunded to him, and if not paid he shall be relieved
 55 from the payment thereof; if, upon such application it is ascer-
 56 tained that any property is assessed too low, the court shall, by an
 57 order entered of record, correct every such assessment, fixing it at
 58 its true and actual value. A copy of any order or orders entered by
 59 any court increasing the valuation of any property shall be certified
 60 within twenty days after the entering of same to the auditor, the

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61 county clerk and the sheriff, and it shall be the duty of the auditor,
 62 the county clerk and the sheriff to charge any taxpayer affected by
 63 such order with the increase of taxes occasioned by the increase of
 64 such assessment by applying the rate of levies for every purpose in
 65 the district where such property is situated for the current year;
 66 such order shall also be filed in the office of the auditor and clerk
 67 of the county court.

68 (a) Section eighteen of chapter eighty of the acts of one
 69 thousand nine hundred and seven is hereby repealed.

Senate Bill No. 347

[BY MR. GOODYKOONTZ.]

Introduced February 17, 1915. Reference to committee dispensed with; rules suspended and taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL requiring an annual meeting of the assessors and members of the boards of review and equalization, and making provision relative thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be held annually on the third Thurs-

2 day and Friday of the month preceding the first day of the assess-
3 ment year a meeting of the assessors and members of the boards of
4 review and equalization of the state for instruction respecting
5 their duties and the discussion of questions relating to the assess-
6 ments of properties.

Sec. 2. Every county assessor shall attend such annual meet-
2 ing. One member of the board of review and equalization, or
3 body acting in lieu thereof, of each county shall also attend said
4 meeting. The member of the board of review and equalization
5 to so attend from each county shall be designated by its own
6 body. The actual traveling and hotel expenses of the assessors
7 and the member of the boards of review and equalization desig-
8 nated as herein required, shall be paid out of the county treasury;
9 but before payment by the county or other body in lieu thereof,

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10 there shall be filed with the state tax commissioner an itemized
11 statement of the expenses certified by the person presenting the
12 account and approved by said state tax commissioner in writing,
13 and when so approved by him, the same shall be filed with the
14 county court, and if found to be correct, paid as herein required.
15 Whenever the assessor, for good and sufficient cause, can not at-
16 tend the annual meeting herein provided, he shall designate one
17 of his assistants, to attend the same. The assistant so designated
18 shall attend and his traveling and hotel expenses shall be paid in
19 like manner as herein provided for the payment of like expenses
20 for the assessor.

Sec. 3. The state tax commissioner shall fix the place for
2 the first annual meeting hereby required, and notify the several
3 assessors and boards of review and equalization at least ten days
4 before the meeting of the place so fixed. The place for all meet-
5 ings, subsequent to the first meeting, shall be determined by those
6 present, before final adjournment of each annual meeting. The
7 state tax commissioner shall prepare, and arrange in advance of
8 each annual meeting, a program of the subjects to be considered
9 and discussed at such meeting, and furnish each assessor and
10 each member of the board of review and equalization at least two
11 copies thereof five days before such meeting.

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Sec. 4. If any assessor, or designated assistant or member
2 of the board of review and equalization shall fail to attend such
3 meeting, in the absence of good and sufficient reason for not doing

4 so, he shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars nor more than
5 twenty dollars.

Senate Bill No. 334

[BY MR. GODBEY.]

Introduced February 13, 1915. Referred to the Committee on Roads and Navigation; February 17, reported back with recommendation that it do pass; rules suspended and taken up out of order for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend chapter eight of the acts of one thousand nine hundred and eight of the legislature of West Virginia, in relation to grading, paving, sewerage and otherwise improving the streets and alleys of municipal corporations; and the method of paying for the same by repealing section sixteen-a of said chapter.

Be it enacted by the Legislature of West Virginia:

That section sixteen-a, of chapter eight, of the acts of one thousand nine hundred and eight of the legislature of West Virginia be and the same is hereby repealed.

Senate Bill No. 174

[BY MR. MARSHALL.]

Introduced January 23, 1915. Referred to the Committee on the Judiciary. February 2, reported back with the recommendation that it do pass. February 9, rules suspended, taken up out of order for immediate consideration; read a first time and ordered to a second reading.

A BILL requiring cities, towns and villages, school districts and independent school districts, to provide for the just application of their revenues to the payment of their obligations; and providing for a review by the courts in mandamus proceedings of the action of such municipalities and school districts in providing or failing to provide for the payment of the obligations.

Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be the duty of the council of every city,
2 town, and village, whether incorporated under general or special
3 law, and of the board of education of every school district and
4 independent school district, to levy for, appropriate for, and pay
5 all obligations of such municipality or school district; or, if the
6 amount which such municipality or school district is permitted
7 to levy will not suffice to pay all of such obligations in full, it shall
8 be the duty of such council or board of education to make a
9 just apportionment of the funds available for the payment of
10 all current obligations; and the discretion of such council or
11 board of education in such respect shall be reviewable by the
12 circuit court of the county in which such municipality or school
13 district is situated. 4 [S. B. No. 174.]

Sec. 2. If any demand against such city, town or village,
2 school district, or independent school district has been disallowed
3 in whole or in part, or if any order payable out of the funds of
4 such municipality or school district, or any judgment or decree
5 for a sum of money against such municipality or school district
6 has been presented to the treasurer or other official or body
7 authorized to make payment thereof; or if any such person has
8 evaded or hindered such presentation, it shall be lawful for the
9 person entitled to the money due on such demand, order, judg-
10 ment or decree to petition any court having jurisdiction, or a judge
11 thereof in vacation, for a writ of mandamus to be directed to
12 the said city, town or village, school district or independent school
13 district, and to the members of its council or board of education,
14 commanding them to provide for the payment of such money
15 by and out of any funds belonging to said municipality or school
16 district and under their control, or out of the funds next coming
17 into their control by levy or otherwise; or to show sufficient
18 cause why they should not be compelled to do so; which writ
19 shall be returnable as the court or judge awarding the same may
20 order. Upon the said writ such proceedings shall be had as
21 are prescribed by law in other like cases, and the court (but not
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22 the judge in vacation) may, if the case justify it, award a per-
23 emptory mandamus, directed to such city, town or village, school
24 district, or to the members of such council or board of education,

25 requiring them to provide in the next appropriation to be there-
26 after made for what shall appear to be due to the said complain-
27 ant, with interest and costs. To any judgment or order of a
28 circuit court under this section, a writ of error or supersedeas
29 may be granted on like principles and rules as in other cases.

Senate Bill No. 89

[BY MR. TALBOTT.]

Introduced January 19, 1915. Referred to the Committee on the Judiciary. January 21, reported back with the recommendation that it do pass. January 22, taken up in regular order for consideration, read a first time, and ordered to a second reading.

A BILL relieving husbands from liability for the contracts or torts of a wife.

Be it enacted by the Legislature of West Virginia:

Sec. 1. A husband shall not be responsible for any contract,
2 liability, or tort of his wife, whether the contract or liability
3 was incurred or the tort committed before or after marriage.

Senate Bill No. 45

[BY MR. GREGORY.]

Introduced January 18, 1915—Referred to the Committee on the Judiciary January 27, reported back with the recommendation that it do pass; January 29, taken up in regular order, read a first time and ordered to a second reading.

A BILL concerning the publication, circulation and distribution of slanderous and libelous matter; and the penalty for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Sec. 1. *Libel Defined*—A malicious publication, by writing,
2 printing, picture, effigy, sign or otherwise than by mere speech,
3 which exposes any living person, or the memory of any person de-
4 ceased to hatred, contempt, ridicule or obloquy, or which causes, or
5 tends to cause any person to be shunned or avoided, or which has a

6 tendency to injure any person, corporation or association of per-
7 sons, in his or their business or occupation, is a libel.

Sec. 2. *Libel a Misdemeanor*—A person who publishes a li-
2 bel, is guilty of a misdemeanor.

Sec. 3. *Malice Presumed; Defense to Prosecution*—A pub-
2 lication having the tendency or effect, mentioned in section one of
3 this act, is to be deemed malicious, if no justification or excuse
4 therefor is shown. The publication is justified when the matter
5 charged as libelous is true, and was published with good motives
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7 honestly made, in the belief of its truth, and upon reasonable
8 grounds for this belief, and consists of fair comments upon the
9 conduct of a person in respect of public affairs, or upon a thing
10 which the proprietor thereof offers or explains to the public.

Sec. 4. *Publication Defined*—To sustain a charge of pub-
2 lishing a libel, it is not necessary that the matter complained of
3 should have been seen by another. It is enough that the defend-
4 ant knowingly displayed it, or parted with its immediate custody,
5 under circumstances which exposed it to be seen or understood by
6 another person than himself.

Sec. 5. *Liability of Editors and Others*—Every editor, or
2 proprietor of a book, newspaper or serial, and every manager of a
3 partnership or incorporated association by which a book, newspa-
4 per or serial is issued, is chargeable with the publication of any
5 matter contained in such book, newspaper or serial. But in ev-
6 ery prosecution for libel the defendant may show in his defense
7 that the matter complained of was published without his
8 knowledge or fault, or against his wishes, by another who had no
9 authority from him to make the publication, and whose act was
10 disavowed by him so soon as known.

Sec. 6. *Publishing a True Report of Public Official Proceed-*
2 *ings*—A prosecution for libel can not be maintained against a re-
3 porter, editor, publisher, or proprietor of a newspaper, for the
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4 publication therein of a full and true report of any judicial, legis-
5 lative or other public and official proceeding, or of any state-
6 ment, speech, argument or debate in the course of the same, with-
7 out proving actual malice in making the report. This section
8 does not apply to a libel contained in the heading of the report,
9 or in any other matter added by any other person concerned in the
10 publication; or in the report of anything said or done at the time

11 and place of the public and official proceeding, which was not a
12 part thereof.

Sec. 7. *Indictment for Libel Published Against Residents—*

2 An indictment for a libel contained in a newspaper published within
3 this state against a resident thereof, may be found either in the
4 county where the paper was published, or in the county where the
5 person libeled resided when the offense was committed. In the lat-
6 ter case, the defendant is entitled to an order of the circuit court
7 directing the indictment against him to be tried in the county in
8-9 which the paper was printed.

10 a. He must apply for the order within thirty days after be-
11 ing committed to jail, or giving bail to answer, the indictment;

12 b. He must execute a bond, payable to the state of West Vir-
13 ginia with two sufficient sureties, approved by the judge hearing his
14 application, in a penal sum fixed by the judge, not less than two
15 hundred and fifty nor more than one thousand dollars, condition-

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16 ed for the payment, in case the defendant is convicted, of all the
17 complainant's reasonable expenses in going to and from his place
18 of residence and the place of trial, and in attendance upon the
19 trial;

20 c. He must, within ten days after the granting of the or-
21 der, file the order and deposit the bond with the clerk of the county
22 in which the indictment is pending.

Sec. 8. *Indictment for Libel Published Against Non-resi-*

2 *dents*—An indictment for a libel published against a person not a
3 resident of this state, must be found and tried in the county where
4 the paper containing the libel purports upon its face to be pub-
5 lished; or, if no county is indicated upon the face of the paper, in
6 any county where the paper was circulated.

Sec. 9. *Restriction on Indictment for Libel*—A person can

2 not be indicted or tried for the publication of the same libel against
3 the same person, in more than one county.

Sec. 10. *Power of Court; Place of Trial*—Nothing contain-

2 ed in this article shall be construed to abridge, or in any manner
3 affect, the power of a competent court, to change the place of trial
4 of an indictment for libel, in the same manner as may lawfully
5 be done in respect to any other indictment.

Sec. 11. *Privileged Communications* — A communication

2 made to a person entitled to, or interested in, the communication,

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3 by one who was also interested in or entitled to make it, or who
 4 stood in such a relation to the former as to afford a reasonable
 5 ground for supposing his motive innocent, is presumed not to be
 6 malicious, and is called a privileged communication.

Sec. 12. *Threatening to Publish Libel*—A person who
 2 threatens another with the publication of a libel, concerning the
 3 latter or concerning any parent, husband, wife, child or other
 4 member of the family of the latter, and a person who offers to
 5 prevent the publication of a libel upon another person upon con-
 6 dition of the payment of, or with intent to extort money or other
 7 valuable consideration from any person, is guilty of a misdemeanor.

Sec. 13. *Furnishing Libelous Information*—Any person who
 4 wilfully states, delivers or transmits by any means whatever to
 3 any manager, editor, publisher, reporter or other employee of a
 4 publisher of any newspaper, magazine, publication, periodical or
 5 serial any statement concerning any person or corporation, which,
 6 if published therein would be a libel, is guilty of a misdemeanor.

Sec. 14. All acts or parts of acts inconsistent herewith are
 2 hereby repealed.

Senate Bill No. 338

[BY MR. BLESSING.]

Introduced February 15, 1915. Referred to the Committee on
 the Judiciary; February 17, reported back with the recommendation
 that it do pass; rules suspended and taken up out of order for
 immediate consideration, read a first time and ordered to a second
 reading.

A BILL to provide for the muzzling of dogs, and providing penalties
 for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be unlawful for dogs to run at large without
 2 being muzzled; *Provided, however*, that it shall not be unlawful
 3 for dogs in actual chase, or under the personal and actual control
 4 of their owners or keepers to be without muzzles when in actual
 5 chase, or when under the personal and actual control of such
 6 owners or keepers.

Sec. 2. Any owner of a dog or dogs who permits the same to
2 run at large in violation of this act shall be guilty of a misdemeanor
3 and fined not less than one dollar nor more than twenty dollars,
4 and justices of the peace shall have jurisdiction for the violation
5 of this act.

Senate Bill No. 147

A BILL to amend and re-enact section twenty-nine of chapter one
hundred and fifty of the code of West Virginia, as last amended
and re-enacted by chapter sixty-nine of the acts of one thousand
nine hundred and seven, relating to the practice of dentistry.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine of chapter one hundred and fifty of the
code, as last amended and re-enacted by chapter sixty-nine of the
acts of one thousand nine hundred and seven, be and the same is
hereby amended and re-enacted so as to read as follows:

Sec. 1. That the West Virginia state board of dental ex-
2 aminers, heretofore created, be continued; to consist of five prac-
3 ticing dentists, whose duty it shall be to make such rules and
4 regulations as are necessary to carry out the purposes and en-
5 force the provisions of this act as hereinafter specified. The
6 members of said board shall be appointed by the governor from
7 the members, who are in good standing, of the West Virginia
8 state dental society, and graduates of reputable dental colleges,
9 schools or dental departments of a reputable university; and,
10 at the time of their appointment upon said board, must have

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11 been actual residents and legally licensed practicing dentists of
12 this state for a period of five years or more immediately preceding
13 their appointment; *provided, however*, that no person shall be
14 eligible to appointment to said board who is in any way con-
15 nected with or interested in any dental college or dental depart-
16 ment of any institution of learning or dental supply business.
17 The term for which the members of said board shall hold office
18 shall be five years; *provided*, that the present members of the board
19 in office at the time of the passage of this act shall continue
20 in office until their respective terms have expired, and until

21 their successors are appointed and qualified; and that no person
22 so appointed shall serve to exceed two terms. All vacancies in
23 said board shall be filled by the governor from said membership.

Officers, Meetings, Records, Etc.

Sec. 2. The said board of dental examiners shall choose one
2 of its members president and one secretary-treasurer thereof, at an
3 annual meeting on the fourth Tuesday in June of each year.
4 Said board may meet oftener if necessary, at the discretion of
5 the board at such place as it may deem proper, for the examina-
6 tion of applicants who may desire to practice dentistry in this
7 state, and for the transaction of any other business that may
8 come before it. Said board shall keep a record book in which
9 shall be registered the names, addresses and license numbers of
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10 all persons legally entitled to practice dentistry in this state.
11 A majority of the members of said board shall at all times con-
12 stitute a quorum for the transaction of business, and the pro-
13 ceedings of said board shall be recorded in a minute book open
14 at all reasonable times to public inspection. The secretary-treas-
15 urer shall execute to the said board bond with approved se-
16 curity for the faithful performance of his duties. The amount
17 of said bond to be determined by said board.

License and Registration, and How Granted.

Sec. 3. No person shall practice dentistry in this state,
2 or attempt to do so, after the passage of this act, without first
3 applying for and obtaining a license for such purpose from the
4 said West Virginia state board of dental examiners, and regis-
5 tering such license as herein provided; and this provision ap-
6 plies to all persons, whether they have heretofore practiced den-
7 tistry in this state or not, except such persons as have been
8 heretofore licensed and registered. Application shall be made
9 to the said board, in writing, at least fifteen days previous to
10 the date of such examination for license and shall, in every in-
11 stance, be accompanied by a photograph of the applicant, and
12 the examination fee of twenty-five dollars, which sum is au-
13 thorized to be charged for such examination by said board. The
14 applicant must be of good moral character, at least twenty-one

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15 years of age at the time of making the application, and the
16 application of such person seeking a license must be accom-
17 panied by satisfactory evidence to said board that the applicant

18 so applying is a graduate of and has a diploma from the faculty
19 of a reputable dental college, dental school, or dental depart-
20 ment of a reputable university, and shall pass examination on
21 the following branches: Anatomy, physiology, bacteriology, his-
22 tology, pathology, materia-medica, anesthetics, chemistry, metal-
23 lurgy, oral-surgery, operative-dentistry, prosthetic-dentistry, crown
24 and bridge-work, gold and porcelain inlays, or such others as the
25 board may from time to time deem proper. Examinations must
26 be both written and clinical, and of such character as to thor-
27 oughly test the qualifications of the applicant to practice den-
28 tistry, and the board may, in its discretion, refuse to grant
29 license to any person they find guilty of cheating, deception
30 or fraud during such examination.

Registering License with County Clerk.

Sec. 4. Every person licensed to practice dentistry in this
2 state by the said West Virginia state board of dental examiners,
3 as herein provided, shall, before beginning the practice of den-
4 tistry, cause said license to be registered with the county clerk
5 of the county or counties in which such person desires to engage
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7 filing his affidavit, showing that he has been examined and li-
8 censed as herein provided, and the county clerk of such county
13 of all dentists registered in his county during the preceding
14 year, this report to be made on tabulated blanks to be sent to
15 said county clerk for that purpose.

16 All denists holding license to practice dentistry in West
17 Virginia, at the time of the enactment of this law, shall reg-
18 ister their license with the county clerk of counties in which
19 they engage in the practice of dentistry within six months
20 after the passage of this act. Such registration books and other
21 printing to be furnished by the state.

Display of License and Certificate of Registration.

Sec. 5. The license to practice dentistry herein provided,
2 and the certificate of registration, shall at all times be dis-
3 played in a conspicuous place in the office of the holder thereof,
4 and the person holding such license shall, whenever requested,
5 exhibit the same to any of the members of the West Virginia
6 state board of dental examiners or its authorized agent.

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Revocation of License.

Sec. 6. The state board of dental examiners may refuse

Bi-annual Registration.

Sec. 8. In order to secure accurate registration lists of the
2 dentists in the state of West Virginia, every person now regis-
3 tered as a dentist within this state shall, within six months after
4 this act takes effect, make application to the secretary of the
5 board of dental examiners for renewal of such license; and if
6 the board of dental examiners shall find that such applicant has
7 been legally registered within this state, it shall issue to him
8 a renewal of such license and for such services shall be entitled
9 to charge and collect a sum of one dollar. Said renewal shall
10 be valid for the period of two years from date of issuance.

11 Notification of the bi-annual renewal shall be given by the
12 secretary of the board of dental examiners at least thirty days
13 prior to expiration of same.

Penalty for Fraud in Obtaining Certificate of Registration.

Sec. 9. Any person filing, or attempting to file as his own,
2 the diploma or license of another, or a forged affidavit of identi-
3 fication or qualification, shall be deemed guilty of a felony, and
4 be punishable, upon conviction, according to the law of the
5 state covering such offense.

Dentistry Defined.

Sec. 10. Any person shall be regarded as practicing den-
2 tistry, within the meaning of this act who shall diagnose or
3 profess to diagnose, or treat, or profess to treat, any of the dis-
4 eases or lesions of the oral cavity, teeth, gums, maxillary bones,
5 or extract teeth, or shall prepare or fill cavities in human teeth,
6 correct malposition of teeth or jaws, or supply artificial teeth as
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7 substitutes for natural teeth, or administer anaesthetics, general
8 or local, or any other practice included in the curricula of rec-
9 ognized dental college. *Provided*, that nothing in this act shall
10 be so construed as to prevent regularly licensed physicians and
11 surgeons from extracting teeth or treating any disease coming
12 within the province of the practice of medicine; and, *provided*,
13 *further*, that this act shall not be construed to prohibit an unli-
14 censed person performing merely mechanical work upon inert
15 matter in a dental office or laboratory.

Signature, Seal, etc. on Licenses.

Sec. 11. All licenses issued by said board shall bear a serial
2 number, the full name of the applicant, the date of the issue,

3 the seal of the board, and be signed by a majority of the mem-
4 bers, and attested by its president and secretary.

Unlawful to Practice Under the Name of a Company.

Sec. 12. It shall be unlawful for any person, or persons,
2 to practice, or offer to practice, dentistry or dental surgery under
3 the name of a company, association or corporation, except all
4 members of said company, association or corporation be legally
5 licensed dentists in West Virginia, and are individually re-
6 sponsible for their own operations.

Dental Reciprocity.

Sec. 13. Said board may, at its discretion, after an oral or
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2 clinical examination, issue a license to practice dentistry to a
3 legal and ethical practitioner of dentistry who removes to West
4 Virginia, and in which he or she conducted a legal practice
5 of dentistry for at least five years immediately preceding his or
6 her removal; *provided*, that such applicant shall present a cer-
7 tificate from the dental board, or a like board of the state or terri-
8 tory from which he or she removes, certifying that he or she is
9 a legal, competent dentist, and of good moral character; and,
10 *provided, further*, that such certificate is presented to the West
11 Virginia state board of dental examiners within six months of
12 the date of its issue, and that the board of such other state or
13 territory shall permit, in like manner by law, the recognition
14 of licenses issued by the West Virginia state board of dental
15 examiners when presented to such other board by legal prac-
16 titioners of dentistry from this state who may wish to remove
17 to or practice in such other state or territory.

Reciprocity Leaving State.

Sec. 14. Any one who is a legal and competent practi-
2 tioner of dentistry in the state of West Virginia, and of good
3 moral character, and known to the board of dental examiners
4 as such, who shall desire to change his or her residence to an-
5 other state or territory or foreign country, shall, upon appli-
6 cation to said board of dental examiners, receive a special cer-
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7 tificate over the signature of the president and secretary of said
8 board and bearing its seal, which shall attest the facts above
9 mentioned in section thirteen and give the date upon which
10 he or she was registered and licensed.

Reciprocity Fees.

Sec. 15. The fee for issuing the license to a legal practitioner from another state, as provided in section thirteen, shall be fifty dollars, and a fee for issuing a certificate to a legal practitioner in this state, as provided in section fourteen, shall be five dollars, and in each case the fee shall be paid before the license or certificate respectively shall be issued.

Penalty for Practicing Without License or Certificate.

Sec. 16. Any person who shall practice or attempt to practice dentistry in this state without having been licensed and registered for that purpose, as herein provided, or shall violate any of the provisions of this act, for which no specific penalty has been provided herein, shall be guilty of a misdemeanor, and on conviction subject to a fine of not less than twenty-five dollars, nor more than one hundred dollars for each offense, and each act of dentistry shall be deemed a separate offense, and constitute a practice of dentistry within the meaning of this act, and each day that a person may hold himself out as practicing in his own or any name shall be deemed a separate offense. The

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opening of an office for the practice of dentistry, or to announce to the public in any way a readiness to do any act defined herein as being dentistry, shall be deemed as engaging in the practice of dentistry within the meaning of this act.

Nothing in this act shall apply to a *bona fide* student of dentistry in the clinic rooms of a reputable dental college, or under the direct supervision of a preceptor who is a licensed dentist in this state during the regular vacation intervals of a college course, if he has matriculated and is pursuing consecutive courses of study in a reputable dental college.

Sec. 17. Any failure, neglect or refusal on the part of any person obtaining a license to practice dentistry from the state board of dental examiners to register said license with the county clerk of county or counties in which he or she is practicing within six months from the date of issuance of such license, or failure to comply with section eight of this act shall work a forfeiture of such license. However, upon the return to the secretary of the state board of dental examiners of the old license accompanied by a fee of ten dollars, a new license shall be issued.

Disposition of Fines and Fees.

Sec. 18. All fees collected under section eight, as well as
2 all fines, imposed and collected under the provision of this act,
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3 shall be paid to the secretary-treasurer of the West Virginia
4 board of dental examiners for the creation of a fund to assist
5 in the enforcement of this act.

Druggists May Fill Dentist's Prescriptions.

Sec. 19. Legally licensed druggists of this state may fill
2 prescriptions of legally licensed dentists of this state for any drug
3 necessary to the practice of dentistry.

Sec. 20. This act shall not prevent students from perform-
2 ing dental operations under the supervision of competent instruc-
3 tors within a dental school, college or dental department of uni-
4 versity recognized by the national association of dental examiners.

Sec. 21. The secretary of the state board of dental exam-
2 iners shall file all records and transactions of the business of
3 said board for future reference. And all manuscripts used in
4 any examination shall be filed by said secretary with the secre-
5 tary of state for safe keeping for a period of one year.

Sec. 22. This act shall become effective on July first, one
2 thousand nine hundred and fifteen.

Repealing Former Dental Laws.

Sec. 23. All acts or parts of acts not included in this act are
2 hereby repealed.

Senate Bill No. 300

[BY MR. KEIM.]

Introduced February 6, 1915. Reference to a committee dispensed with; rules suspended, taken up for immediate consideration, read a first time and ordered to a second reading.

A BILL to amend and re-enact sections one and twenty-four of chapter three of the acts of the legislature of West Virginia of one thousand nine hundred and eight, which act is entitled "An act to establish the independent school district of Buckhannon, in the county of Upshur, and state of West Virginia," by including additional territory in said independent school district of

Buckhannon, and submitting the question to the vote of the people.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That in the event a majority of the votes cast at an election to be held on the second Tuesday in April, one thousand nine hundred and fifteen, in Buckhannon independent school district, and in Union district, in Upshur county, West Virginia, be in favor thereof, the following described territory, in the county of Upshur, shall, after the result of such election is ascertained and declared, be an independent school district and shall be known as the independent school district of Buckhannon, to-wit: all the town of Buckhannon, and the territory adjacent thereto, and bounded and described as follows:

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Beginning at the line of Jacob Dean and D. W. Dix on the Buckhannon river, beyond said Dean's residence; thence a straight line in a western direction to the low gap where the Clarksburg and Buckhannon turnpike crosses the hill south of Luther Martin's residence; thence a straight line in a western direction to a point where the Gladys road intersects the Staunton and Parkersburg turnpike; thence a straight line in a southern direction to the line between the farm of M. J. Jackson and the Montaville Reger heirs; thence with the said line in an eastern direction to the Buckhannon river; thence with and down the said river to the southern line of the Benton Queen land; thence with the line of the said land to the old road between the said Benton Queen's lands and Jason Sexton's land; thence with the old road, which is the line between Benton Queen and the L. D. Strader heirs on the one side, and Jason Sexton and H. B. Marshall on the other side, to the property line between the said Jason Sexton and H. B. Marshall land; thence with the property line of the said Marshall land between the said Marshall's land and the Sexton land, and continuing with the line of the said Marshall land, so as to include the same herein, to the intersection of the said old road with Florida street; thence with Florida street in a western direction to a point where it is intersected by the road leading to the Poe bridge; thence with said road to a point where it first reaches the

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bank of the Buckhannon river; thence in a western direction to the Buckhannon river; thence with and down said river to a point in said river, on the south side thereof, and opposite the place of

37 intersection of the old Crites mill road with the Staunton & Park-
38 ersburg turnpike; thence across said river to the intersection of
39 the said old Crites mill road; thence a straight line through the
40 lands of Adam Post and J. W. Heavner to the Heavner ford in
41 the Buckhannon river; thence with and down said river to the
42 place of beginning.

43 *Provided, however,* that this act shall not become effective
44 and the additional territory included by it shall not become a part
45 of the said independent school district of Buckhannon until the
46 additional property included by this act shall become the prop-
47 erty of the Fraternal Order of Knights of Pythias of the Grand
48 Domain of West Virginia, as a site and location for a State Py-
49 thian Home, and in the event said additional property should ever
50 be abandoned for use as such State Pythian Home, then this act
51 shall be null and void and of no effect.

Sec. 24. The election provided for in section one of this
2 act, shall be by ballot, and those voting for the establishment of
3 said independent district, shall have written or printed on their
4 ballots the words "For Independent District," and those voting

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5 against the establishment thereof shall have written or printed on
6 their ballots "Against Independent District."

7 The election shall be superintended, and the results thereof
8 ascertained by election of officers appointed by the county court
9 of Upshur county; and all the provisions of the election laws in
10 this state, so far as applicable, shall be enforced and govern such
11 election.

PRINTED BY ORDER OF COMMITTEE ON THE JUDICIARY.

Senate Bill No. 39

[BY MR. GREGORY.]

A BILL to provide for the forfeiture of certain oil and gas leases under specified conditions upon written notice by a lessor when a cash rental is paid; prescribing the duty of lessees in oil and gas leases, and providing a forfeiture and surrender to the lessor of undeveloped territory upon specified conditions and notice after a vested right to produce and take oil and gas has accrued to the

lessee, and giving the lessee a vested right in oil and gas in certain acreage appurtenant to each well drilled; and defining in what "Abandonment of Operations" may consist.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the lessor in any oil and gas lease which provides for a period or time in which a well is to be drilled or completed, and also a rental term, exceeding one year, whereby a cash rental is to be paid, shall have the right to forfeit, cancel, avoid and annul the same, by causing to be given to the lessee, and assignee, if known, a written signed notice for a period of not less than ninety days next prior to the date the rental is due and payable under such lease, and declaring in such notice his intention

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9 to forfeit, cancel, avoid and annul the lease on and after such rental date, unless the lessee or assignee shall drill and complete a well for oil or gas thereon within said ninety days. The service of such written notice may be as is provided in section one of chapter one hundred and twenty-one of the code of West Virginia (edition of one thousand eight hundred and ninety-nine), or by sending a copy by registered mail to the lessee or assignee, if known, directed to his last known post office address, and receiving the return registered mail card in return.

Sec. 2. It shall be the duty of the lessee or assignee in an oil and gas lease, to diligently and faithfully develop the territory embraced in such lease on and after a vested right to produce and take the oil and gas in accordance with the terms and conditions of such lease, has accrued to him by reason of the discovery of oil or gas or both in paying quantities thereunder. And should the lessee or assignee in such oil and gas lease fail, refuse or neglect to diligently and faithfully develop the territory embraced in such lease, by drilling, at the least, one well thereon within the period of twelve months next succeeding the completion or cessation of drilling of the last well drilled by the lessee or assignee under such lease until there is drilled, at the least, the number of wells equal to the concrete number of one-tenth, if oil wells, and one-twentieth, if gas wells, (excluding fractions) of the total number

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15 of acres embraced in such lease, he shall forfeit, surrender and abandon to the lessor the undrilled and undeveloped part of the territory embraced in such lease on and after such time as the lessor shall cause to be served upon him, the lessee or assignee, a no-

19 tice similar in all respects to the notice prescribed in section one
 20 of this act. *Provided, however,* that the lessee or assignee shall
 21 have a vested right, under the terms of such lease, in the oil and
 22 gas in, to and under ten acres if oil is produced, and twenty acres
 23 if gas only is produced of the territory embraced in such lease in,
 24 to and for each and every well drilled thereon and from which oil
 25 or gas or both is produced in paying quantities; such ten and
 26 twenty acres respectively to be laid off and set apart to him in a
 27 compact and contiguous body or bodies next immediately sur-
 28 rounding and appurtenant to the well or wells so drilled thereon
 29 with the boundary lines as nearly equi-lateral and equi-distant
 30 from the well or wells as may be.

Sec. 3. It is hereby defined and declared that a failure or ces-
 2 sation to drill and operate any territory embraced in an oil and gas
 3 lease, when oil or gas or both have been discovered in paying
 4 quantities thereunder, for a continuous period of twelve months,
 5 when the total number of wells drilled on the territory embraced
 6 in such lease does not equal the concrete number of one-tenth, if
 7 oil wells, and one-twentieth, if gas wells only, (excluding frac-
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 8 tions) of the total number of acres embraced in such lease, shall
 9 constitute and shall be considered "abandonment of operation" of
 10 the undrilled and undeveloped part of the territory embraced in
 11 such lease.

Senate Bill No. 237

[BY MR. CARTER.]

Introduced January 29, 1915. Referred to the Committee on Counties and Municipalities. February 3, reported back with the recommendation that it do pass; February 11, taken up in its regular order for consideration, read a first time and ordered to a second reading.

A BILL to empower the people of cities and towns of more than two thousand population to make, amend, add to and replace the charters of such cities and towns.

Be it enacted by the Legislature of West Virginia:

Section 1. The people of each city or town in this state

2 having a population of two thousand inhabitants or more, as de-
3 termined by the last preceding census taken under the authority
4 of the United States government, are hereby vested with, and
5 they shall always have, power to make, amend, add to or replace
6 the charter of said city or town, which shall be its organic law
7 and extend to all of its local and municipal affairs; *provided*, that
8 such charter and the ordinances made pursuant thereto shall not
9 conflict with the constitution of this state or the general laws en-
10 acted by the legislature.

Sec. 2. Proposals for charter conventions shall be submit-
2 ted by the city council, or other body in which the legislative
3 powers of the city or town shall then be vested, at special elections,
4 or at general state or municipal elections, upon the petition of
5 qualified voters of said city or town, in number not less than
6 twenty per cent of the total vote for governor in said city or
7 town at the last general state election.

Sec. 3. Such proposal shall be submitted to the qualified
2 voters of such city or town at the next general election therein,
3 *provided*, the same is not held within thirty days nor more than
4 six months after such petition is filed. When no general election
5 is to be so held, if the petition so request, the said proposal shall
6 be submitted at a special election to be held not less than two nor
7 more than six months after the filing of said petition; if the
8 petition do not so request, said proposal shall be submitted at the
9 next general election. Any such proposal so submitted at a spe-
10 cial election shall not again be submitted at a special election
11 within two years thereafter.

Sec. 4. Whenever at any such election the proposal for a
2 charter convention is carried by a majority of those voting there-
3 on, a charter convention shall at once be called through a special
4 election, to be conducted as provided by law, at which election the
5 qualified voters of said city or town shall elect twenty-one tax-
6 payers thereof, who shall have been qualified voters within the
7 limits of said city or town for at least five years, who shall con-
8 stitute a charter convention, to frame a charter for said city or
9 town in conformity to the constitution and laws of the state.
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10 Such convention shall meet within ten days after said election and
11 shall complete its work within sixty days after meeting.

Sec. 5. When such charter convention shall have completed
2 a charter for such city or town, the same shall immediately be
3 signed by the officers and members of the convention, and deliv-
4 ered to the recorder or clerk of the city or town, who shall forth-
5 with publish the same in full, with his official certification, in two
6 newspapers published in said city or town, of opposite politics,
7 if such there be, once a week for four successive weeks, or in the
8 county paper in which said town is located. With said charter
9 the said recorder or clerk shall publish a call for a special election,
10 to be held within one week aftr the date of the last publication
11 thereof, at which the qualified voters of said city or town shall
12 by vote express their approval or rejection of the said charter. If
13 the said charter shall be approved by a majority of the electors
14 voting thereon, then a copy thereof, together with the vote for and
15 against the same, duly certified by said recorder or clerk, shall,
16 within ten days after such vote is taken, be filed with the secretary
17 of state, and shall thereupon become and be the charter of said
18 city or town. Said recorder or clerk shall also publish once in said
19 newspapers the full text of such charter so approved, within ten
20 days following the said eletcion.

Sec. 6. From and after the certifying to and filing with the

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2 secretary of state of a charter framed and approved in conformity
3 with he provisions of his act, such city or town, and the citizens
4 thereof, shall have the power of perpetual succession, in the name
5 of such city ortown, and shall own, possess and hold all property,
6 real and personal, theretofore owned, possessed or held by said city
7 or town, and shall assume, manage and dispose of the same and
8 of all trusts in any way connected therewith; shall succeed to all
9 the rights and liabilities and shall acquire all benefits, and as-
10 sume and pay all bonds, obligations and indebtedness of the then
11 existing municipality; may in its corporate name sue and defend,
12 plead and be impleaded; may have and use a common seal and
13 alter the same at pleasure; may purchase, receive, hold and en-
14 joy, or sell and dispose of, real and personal property, may re-
15 ceive bequests, gifts, and donations of all kinds of property, in
16 fee simple, or in trust for public, charitable or other purposes;
17 and do all things and acts necessary to carry out the purposes of
18 such gifts, bequests and donations, with power to manage, sell,
19 lease or otherwise dispose of the same in accordance with the
20 terms of the gift, bequest or trust; shall have the power, within
21 or without its territorial limits; to construct, condemn and pur-

22 chase, acquire, lease, add to, maintain, conduct and operate, wa-
 23 ter works, light plants, power plants, transportation systems, heat-
 24 ing plants, and any other public utilities or works or ways local in
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72 It is the intention of this act to grant and confirm to the
 73 people of all municipalities coming within its provisions, the full
 74 right of self-government in local and municipal affairs, and the
 75 enumeration herein of certain powers shall not be construed to
 76 deny to such cities and towns, and to the people thereof, any right
 77 or power essential or proper to the full exercise of such right.

Sec. 7. Upon petition of qualified voters of such city or
 2 town, in number not less than twenty per cent of the total vote
 3 for governor in said city or town at the last general state election,
 4 the council or other governing body shall submit to the qualified
 5 voters thereof any amendment to the existing charter proposed by
 6 such petition. Such proposed amendment shall be submitted, as
 7 nearly as may be, in accordance with the provisions of this act re-
 8 specting the submission of charters drafted by a charter conven-
 9 tion, and if carried by the majority required for such charters, shall
 10 be likewise certified to the secretary of state and thereupon be-
 11 come a part of the charter of such city or town.

Senate Bill No. 106

AN ACT to amend and re-enact chapter twenty-two of the acts of one
 thousand nine hundred and eight, included in the code of one
 thousand nine hundred and thirteen, as sections eight-b I, eight-b
 II, eight-b III, eight-b IV, eight-b V, eight-b VI, eight-b VII,
 eight-b VIII, eight-b IX, eight-b X, eight-b XI, eight-b XII,
 eight-b XIII, eight-b XV, eight-b XVI, eight-b XVII, eight-b
 XVIII, eight-b XIX of chapter five; to prevent corrupt practices
 in elections, to limit the expenses of candidates and political
 committees, and to provide penalties for the violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. That at all primary elections for the nomination
 2 of candidates, and for the election of party committeemen, and at
 3 all other elections for public officers, (except elections for local
 4 officers in towns of less than five thousand population, and for

5 school district officers), records of receipts and expenditures for
6 political purposes shall be kept by or on behalf of all candidates;
7 sworn statements of such receipts and expenditures shall be made
8 and filed as public records by all candidates and by their political
9 agents, representatives, or any person acting for or on behalf
10 of such candidate, and the treasurers of all political committees;
11 and such receipts and expenditures shall be subject to the regula-
12 tions and provisions of this act.

Sec. 2. (a) The term "election" shall apply to all primary
2 elections, to all other elections, general or special, by the legal
3 voters of this state or its sub-divisions, and to elections by the
4 legislature, or either house thereof.

5 (b) The term "candidate" shall apply to any person
6 whose name is printed on an official ballot for public office, and
7 to any person who has been proposed for nomination or election
8 to public office, and who either tacitly or expressly consents to
9 so be considered, except candidates for president and vice-presi-
10 dent of the United States, and presidential electors.

11 (c) The term "financial agent" shall apply to any person
12-a acting for and by himself or to any two or more natural
12 persons acting together or co-operating in a financial way to
13 aid or take part in the nomination or election of any candi-
14 date for public office, or to aid or promote the success or defeat
15 of any political party or principle at any election, or any proposi-
16 tion submitted to vote at a public election.

17 (d) The term "public office" shall apply to any elective
18 office provided for by the constitution or laws of the state of
19 West Virginia to which a salary or other compensation attaches.

Treasurer of Political Committee.

Sec. 3. Every political committee shall appoint and main-
2 tain a treasurer, to receive, keep and disburse all sums of money
3 which may be collected or received by such committee, or by any
4 of its members, for election expenses; and unless such treasurer
5 is first appointed and thereafter maintained, it shall be unlawful
6 for a political committee or any of its members to collect, receive
7 or disburse money for any such purpose. All money collected or re-
8 ceived by any political committee, or by any of its members, for
9 election expenses, shall be paid over to and made to pass through
10 the hands of the treasurer and shall be disbursed by him; and it
11 shall be unlawful for any political committee, or any of its mem-

12 bers, to disburse any money for election expenses unless such
13 money shall have been paid to and disbursed by the treasurer.

14 One person may be designated to act as treasurer for two or
15 more political committees and candidates.

Sec. 4. No person shall act as the treasurer of any political
2 committee or as financial agent for any candidate for any office to
3 be nominated or elected by the votes of the entire state, including
4 delegates and alternates at large to a national convention, and
5 candidates for president of the United States, unless a written
6 statement designating him as such treasurer or financial agent
7 shall be filed with the secretary of state, at least sixty days before
8 the election at which he is to act.

9 No person shall act as a treasurer of any political committee
10 or as financial agent for any candidate to be nominated or elected
11 by the votes of any political division less than the entire state or
12 greater than a county, including candidates for the state executive
13 committees and delegates to national conventions, unless a written
14 statement designating him as such treasurer or financial agent is
15 filed with the clerk of the county court of each county within
16 such political division at least sixty days before the election at
17 which he is to act.

18 No person shall act as treasurer of any political committee,
19 or as financial agent for any candidate to be nominated or elected
20 by the votes of a county or district therein, or the treasurer or
21 financial agent for a candidate for the nomination or election to
22 any other office not herein mentioned, unless a written statement
23 designating him to act as such treasurer or financial agent shall
24 be filed with the clerk of the county court at least sixty days be-
25 fore the election at which he is to act.

26 No person shall act as treasurer of any city political commit-
27 tee, or financial agent for any candidate to be nominated or elected
28 by the votes of a city, unless written notice of such designation
29 is filed with the clerk or recorder of such city at least twenty
30 days before the election at which he is to act.

Accounts and Vouchers.

Sec 5. Every candidate, financial agent and the treasurer
2 of every political committee, shall keep detailed accounts of all
3 money, or its equivalent, received by them, and of all expenditures,
4 disbursements made, and liabilities incurred by such candidate,

5 agent or political committee for political purposes, or by any
6 of the officers or members of such committee, or any person acting
7 under its authority or on its behalf.

Sworn Statements.

Sec. 6. Not less than seven nor more than fifteen days before each primary or other election, and again within thirty days after each primary or other election, every candidate for public office, (except in towns of less than five thousand population), and every financial agent, and the treasurer of every political committee, shall file with the officers hereinafter prescribed a detailed, itemized statement subscribed and sworn to before an officer authorized to administer oaths, setting forth all financial transactions in connection with such primary or other election. Such statements shall show each and every sum of money or other thing of value contributed or advanced; the name of each person, firm, association or committee by whom it was contributed or advanced; the amount and purpose of every expenditure made or liability incurred, and the name of each person, firm, association or committee to whom such expenditure was made or liability incurred, with dates of each transaction.

Any unexpended balance remaining in the hands of the treasurer of any political committee at the time of making the statements herein provided for, shall be properly accounted for in said statement and shall appear as a balance in the next following report of such treasurer or his successor in office.

Such sworn statements shall be filed with the secretary of state by candidates for state and other offices to be nominated or elected by the votes of a political division greater than a county; with the clerk of the county court by candidates for offices to be nominated or elected by the votes of a county or district therein, and by all candidates for other offices not otherwise provided for, and with the clerk or recorder of the city in the case of candidates for city offices.

Blank Forms and Preservation of Statements.

Sec. 7. Blank forms of all financial statements required under this act shall be prepared by the secretary of state, and copies thereof, together with a copy of this act, shall be furnished through the county clerk or otherwise, as the secretary of state may deem expedient, to all treasurers of political committees, to all political agents and to all candidates for nomination or elec-

7 tion to any office upon the filing of petitions or announcement
8 for nomination, and to all other persons required by law to file
9 such statements who apply therefor.

10 All statements filed in accordance with this act shall be re-
11 ceived, endorsed and filed by the secretary of state, county clerks
12 and city clerks or recorders.

13 All statements filed in accordance with the provisions of this
14 act shall be preserved for one year after the election to which they
15 relate.

Penalties for Failure to File Statements.

Sec. 8. Any candidate, financial agent or treasurer of a
2 political committee who shall fail to file a sworn, itemized state-
3 ment as above provided, within the time required, shall be guilty
4 of a misdemeanor and upon conviction shall be fined not less than
5 fifty dollars, or imprisoned in the county jail for not more than
6 six months, or both, at the discretion of the court.

7 Forty days after any such primary or other election, the sec-
8 retary of state, county clerk or city clerk or recorder, as the case
9 may be, shall give notice of any failure to file such statement by
10 any candidate, financial agent or treasurer of a political committee,
11 to the prosecuting attorney of the county where such delinquent
12 resides.

13 No candidate nominated at a primary election who has failed
14 to make a sworn statement as required by this act, shall have his
15 name placed on the official ballot for the ensuing election, unless
16 there has been filed by or on behalf of said candidate, or by his
17 financial agent, if any, the financial statement relating to nomina-
18 tions required by this act; and it shall be unlawful to issue a
19 commission or certificate of election or to administer the oath
20 of office to any person elected to any public office who has failed
21 to file a sworn statement as required by this act; and no such
22 person shall enter upon the duties of his office until he has filed
23 such statement, nor shall he receive any salary or emolument for
24 any period prior to the filing of such statement.

Restrictions on Contributions.

Sec. 9. No officer of any corporation, or agent or person on
2 behalf of such corporation, whether incorporated under the laws
3 of this or any other state, or foreign country, shall pay, give or lend,
4 or authorize to be paid, given or lent, any money or other thing of
5 value belonging to such corporations, to any candidate, financial

6 agent or political committee or other person, for the payment of any
7 primary or other election expenses whatever. No person shall so-
8-9 licit or receive such payment, contribution or other thing from any
10 corporation, officer or agent thereof, or other person acting on be-
11 half of such corporation.

Lawful Expenditures.

Sec. 10. No candidate, financial agent or treasurer of a
2 political committee, shall pay, give or lend, or agree to pay, give
3 or lend, either directly or indirectly, any money or other thing of
4 value for any election expenses, except for the following pur-
5 poses:

6 *First.* For rent, maintenance and furnishing of offices to be
7 used as political headquarters and for the payment of neces-
8 sary clerks, stenographers, typewriters, janitors and messengers
9 actually employed therein.

10 *Second.* For printing and distributing books, pamphlets,
11 circulars and other printed matter relating to political issues
12 and candidates and painting, printing and posting signs, banners
13 and other advertisements.

14 *Third.* For renting and decorating halls for public meetings
15 and political conventions, for advertising public meetings, and
16 for the payment and transportation of speakers and musicians at
17 such meetings.

18 *Fourth.* For the necessary traveling and hotel expenses of can-
19 didates, political agents and committees, and for stationery, postage,
20 telegrams, telephone, express, freight and public messenger service.

21 *Fifth.* For preparing, circulating and filing petitions for
22 nomination of candidates.

23 *Sixth.* For examining the lists of registered voters, investi-
24 gating the right to vote of the persons listed therein, and con-
25 ducting proceedings to prevent unlawful registration or voting.

26 *Seventh.* For conveying infirm or disabled voters to and
27 from the polls.

28 Every liability incurred and payment made shall be at a rate
29 and for a total amount which is proper and reasonable and fairly
30 commensurate with the services rendered.

Limitation of Expenditures.

Sec. 11. No payment shall be made and no liability shall
2 be incurred by or on behalf of any candidate for office in this state

3 to aid in securing his nomination or election, or both, which shall
4 in the aggregate exceed the amounts herein provided for; that is to
5 say, candidates for United States senate or any state office, the
6 sum of seventy-five dollars for each county in the state for the
7 primary election, and a like amount for the general election;
8 candidates for members of the legislature, the amount
9 of one hundred and twenty-five dollars in each county
10 in which said candidate is voted for, for the primary elec-
11 tion, and a like amount for the general election; for members
12 of the United States house of representatives, the sum of
13 seventy-five dollars for each county in the district at the pri-
14 mary election, and a like amount for the general election;
15 for any county office a sum not to exceed two hundred dollars in
16 each county at the primary election, and a like amount for the
17 general election; and any other office, not hereinbefore mentioned,
18 a sum not to exceed fifty dollars in the political division in which
19 such person is candidate in the primary election, and a like amount
20 for the general election.

21 Any candidate may delegate to a financial agent or a politi-
22 cal committee, in writing duly subscribed by him, the expenditure
23 of any portion of the total expenses authorized to be incurred by
24 him or on his behalf; but the aggregate of all expenses made and
25 incurred by such candidate, by any political agent on his behalf and
26 by any political committee on his behalf, shall not exceed the
27 amounts hereinbefore provided.

27-a No payments shall be made and no liability shall be incurred
28 by any financial agent or political committee which shall exceed
29 in the aggregate the sum of the amounts theretofore delegated
30 to such committee by the candidate in writing as herein provided.

Corrupt Practices.

Sec. 12. The following persons shall be deemed guilty of
2 corrupt practices, and upon conviction shall be punished in ac-
3 cordance with the provisions of this act:

4 (a) Any person, other than a financial agent or a member
5 of a political committee, duly appointed and designated as pro-
6 vided in this act, who shall solicit from any candidate for nomi-
7 nation or election to any public office, any money, gift, contribu-
8 tion, emolument, or other valuable thing, for the support, assist-
9 ance, benefit or expenses of any person or persons, club, company,
10 organization, religious body, society, association, or for any other

11 purposes except as herein provided, or for the expenses of any
12 primary or other election campaign.

13 (b) Any person who shall demand, solicit, ask or invite
14 any candidate to make any contribution or incur any obligation
15 to any religious, charitable or fraternal cause, or organization
16 other than political committees duly designated under the pro-
17 visions of this act, or to buy tickets to any entertainments or ball,
18 or to subscribe or pay for space in any book, program, periodical,
19 newspaper or other publication; or any candidate who shall make
20 or promise any such payment or contribution with the apparent
21 hope or intent to influence the result of any election; *provided*,
22 that this paragraph shall not apply to the solicitation of any
23 business advertisements in a periodical in which such candidate
24 regularly advertised prior to his candidacy, nor to ordinary busi-
25 ness advertising, nor to the regular and normal payments to any
26 religious, charitable or other organization to which he may have
27 been a contributor for more than six months before his candidacy.

28 (c) Any person who shall, directly or indirectly, by himself
29 or by any other person on his behalf, make use of, or threaten to
30 make use of, any force, violence or restraint, or inflict, or threaten
31 to inflict any damage, harm or loss, upon or against any person,
32 or by any other means attempt to intimidate or exert any undue
33 influence, in order to induce such person to vote or refrain from
34 voting, or on account of such person having voted or refrained
35 from voting, at any election, or who shall by abduction, duress or
36 any fraudulent device or contrivance, impede or prevent the free
37 exercise of the suffrage by any elector, or shall thereby compel,
38 induce or prevail upon any elector either to vote or refrain from
39 voting for or against any particular candidate or measure.

40 (d) Any person who, being an employer, or acting for or on
41 behalf of any employer, shall give any notice or information to
42 his employees, containing any threat, either express or implied,
43 intended or calculated to influence the political view or actions of
44 his workmen or employees.

45 (e) Any person who shall, knowingly, make or publish, or
46 cause to be made or published, any false statement in regard to
47 any candidate, which statement is intended or tends to affect any
48 voting at any election **whatever**.

49 (f) Any person who shall pay any owner, publisher, editor
50 or employee, or any newspaper or other periodical to advocate or
51 oppose editorially, any candidate for nomination or election, or

52 any political party, or any measure to be submitted to the vote
53 of the people; any owner, publisher, editor, or employee who
54 shall solicit or accept such payment.

Practices Forbidden.

Sec. 13. (a) No person shall publish, issue or circulate,
2 or cause to be published, issued or circulated, any anonymous let-
3 ter, circular, placard, or other publication tending to influence
4 voting at any election.

5 (b) No owner, publisher, editor or employee of a newspaper
6 or other periodical, shall insert, either in its advertising or read-
7 ing columns any matter, paid for or to be paid for, which tends to
8 influence directly or indirectly, the voting at any election what-
9 ever, unless it is distinctly designated as a paid advertisement,
10 and states the name of the person authorizing its publication and
11 the candidate in whose behalf it is published.

12 (c) No person shall, in any room or building occupied for
13 the discharge of official duties by any officer or employee of the
14 state or a political sub-division thereof; solicit orally or by written
15 communication delivered therein, in any other manner, any con-
16 tribution of money or other thing of value for any party or polit-
17 ical purpose, whatever, from any postmaster or other officer or
18 employee of the federal government, or officer or employee of the
19 state or a political sub-division thereof. No officer, agent, clerk, or
20 employee of the federal government, or of this state or any politi-
21 cal sub-division thereof, who may have charge or control of any
22 building, office or room, occupied for any official purpose, shall
23 permit any person to enter the same for the purpose of therein
24 soliciting or delivering written solicitations for, or receiving from,
25 or giving notice of any political assessments to any officer or em-
26 ployee of the state, or a political sub-division thereof.

Penalties.

Sec. 14. (a) Any person who shall be guilty of the cor-
2 rupt practice under sections twelve and thirteen of this act, shall,
3 on conviction, be disqualified from voting or from holding any
4 office or employment during a period of five years from the date
5 of conviction, and if elected to or occupying any public office or
6 employment, such office or employment shall be vacated from
7 the date of conviction. Any person convicted of a second or sub-
8 sequent offense hereunder shall be forever disqualified from vot-
9 ing or holding any public office.

10 (b) Any person who shall violate any of the other pro-
11 visions of this act, for the violation of which no other penalty is
12 provided, shall, on conviction be disqualified from voting or hold-
13 ing any public office, or employment, during a period of three
14 years from the date of conviction, and if elected to, or occupying
15 any public office or employment, such office or employment shall
16 be vacated from the date of conviction. Any person convicted of
17 a second or subsequent offense hereunder shall be disqualified
18 from voting or holding any public office in this state for a period
19 of twenty-one years.

20 (c) Any corporation which shall violate any provision of
21 this act, or shall reimburse or compensate in any manner what-
22 ever any person who shall have given, loaned or promised any
23 money or other thing of value in violation of this act, on convic-
24 tion thereof, for the first offense, shall be fined not less than one
25 thousand dollars nor more than ten thousand dollars; and upon
26 conviction of any second or subsequent offense, if organized under
27 the laws of this state, shall forfeit its charter and all rights, privi-
28 leges and immunities thereunder, or if organized under the laws
29 of another state or country, shall forfeit all right to carry on any
30 business in this state.

31 (d) Any officer, agent or employee of any corporation who
32 may on behalf of himself or such corporation do any of the things
33 prohibited by this act, shall on conviction thereof, be fined not
34 to exceed five hundred dollars, and be imprisoned in the county
35 jail not to exceed one year; and shall be disqualified from voting
36 or holding office for a period of three years.

37 (e) Any voter who shall, before or during any election,
38 directly or indirectly by himself, or by any other person on his
39 behalf, solicit, demand, receive, agree or contract for any money,
40 gift, loan, or valuable considerations, office, place or employment,
41 or solicit any endorsement on a note or other paper, public or pri-
42 vate, for himself or for any other person, for voting or agreeing
43 to vote, or for voting for any person or candidate or object, or
44 agreeing to refrain therefrom, or from refraining or agreeing
45 to refrain from voting at any election; or any person who shall,
46 after any election, directly or indirectly by himself, or any other
47 person on his behalf, solicit, demand or receive any money or
48 valuable consideration on account of any person having voted
49 or refrained from voting, or having induced any other person
50 to vote or refrain from voting at any election, shall, on convic-

tion, be disqualified from voting or holding any public office in this state for a period of five years from the date of his conviction; but if any such voter or person mentioned in this subsection shall testify and speak the truth on behalf of the state in any prosecution against the giver or promisor, he shall not be prosecuted for any offense under this sub-section.

(f) Any person who shall directly or indirectly, by himself or by other person on his behalf, give, lend, or agree to give or lend, or offer, promise, or promise to procure or endeavor to procure any money or valuable consideration, or any place or employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or to vote for any particular person or candidate, or object, or to refrain therefrom; or shall do any such act as aforesaid on account of such voter having voted or refrained from voting at an election, or having voted for any particular person or candidate or object, or refraining therefrom, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars and may be imprisoned not to exceed ninety days for every such offense; and in addition thereto shall be disqualified from voting or holding office in this state for a period of five years from the date of his conviction.

(g) Any person who shall advance or pay or contribute, or cause to be paid or contributed, any money or other thing of value to or for the use of any other person with the intent that such money or other thing of value, or any part thereof, shall be expended in bribery for any primary or other election, or who shall knowingly pay or cause to be paid any money or other thing of value, shall, on conviction thereof, be disqualified from voting, or holding any public office in this state for a period of five years from the date of his conviction.

(h) Any person or persons, firm, corporation, association, or organization of persons or the individual members thereof, who, by themselves, their officers or agents, shall solicit, demand or require of any candidate at or before any primary or final election a promise or pledge directly or indirectly, to vote for or against any particular candidate or measure, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed five hundred dollars. Any candidate from whom has been exacted any such

85 promise or pledge, shall be disqualified from holding the office to
86 which he may be nominated or elected.

Judicial Inquiry.

Sec. 15. At any time within sixty days after any primary
2 or other election, the attorney general, any prosecuting attorney,
3 any candidate voted for at such election, or any one hundred
4 qualified voters, upon giving bond to indemnify the person whose
5 election is contested, from all costs, attorneys' fee and expenses
6 incurred by him in defending his title to office in the event that
7 such person's title to his office is upheld, may present to any cir-
8 cuit judge a petition setting forth under oath, upon information
9 or personal knowledge, that corrupt and illegal practices con-
10 trary to the provisions of this act, specifying the same, were com-
11 mitted in connection with such election, naming any candidate as
12 defendant, and praying for a judicial inquiry into the alleged
12-a facts.

13 If such judge shall be of the opinion that the interests of
14 public justice require such a judicial inquiry, he shall authorize
15 such inquiry.

16 Such petition shall be tried without a jury; the petitioner or
17 petitioners, and all candidates at such election, shall be entitled
18 to appear and be heard as parties; and the court shall have power
19 to compel the attendance of witnesses and the production of
20 books and papers which are relevant and material, and all the evi-
22 dence taken shall be properly certified and made a part of the rec-
23 ord of such proceeding.

Certificate of Findings.

Sec. 16. In the case of a judicial inquiry into corrupt and
2 illegal practices connected with the election of presidential elect-
3 ors, a United States senator or a member of the United States
4 house of representatives, the evidence and the opinion and deter-
5 mination of the court shall be certified to the governor, who shall
6 transmit the same to the proper authorities of the United States
6-a government for such action as said authorities may deem proper.

7 In the case of a judicial inquiry into corrupt and illegal
8 practices connected with the election of any officer of the exec-
9 utive department of this state, or of any member of the legisla-
10 ture, the evidence and the opinion and determination of the court
10-a shall be certified to the speaker of the house of delegates; or, (in

10-b a case referring to a member of the state senate), to the presi-
10-c dent of the senate, for such action as may be deemed proper. In
11 case of such judicial inquiry as to a circuit judge such proceed-
12 ing shall be heard and determined by the circuit court of any
13 adjoining circuit.

14 In the case of a judicial inquiry into corrupt and illegal
15 practices connected with the election of any other public officer,
16 the trial court shall certify to the governor his decision and judg-
17 ment with reference to the existence of corrupt and illegal prac-
18 tices, the effect of any such practices on the validity of the elec-
19 tion, and the guilt or innocence of any candidate or his political
20 agent. If any such court shall decide that any successful candi-
21 date so petitioned against, in person or through his political
22 agent, had committed corrupt or illegal practices, sufficient to
23 materially influence the result, the election of such candidate shall
24 be void. In case of any election except a primary election so held
25 to be void, the governor shall, within twenty days after the re-
26 ceipt of such decision, issue a writ for a new election, to be held
27 within forty days after the issuance of such writ.

Privilege of Witnesses.

Sec. 17. At any trial, inquiry or hearing under the provis-
2 ions of this act, no person shall be excused from attending and
3 testifying, or from producing books, papers or other documents
4 before the court upon the ground, or for the reason, that the tes-
5 timony or evidence, documentary or otherwise, required of him,
6 may tend to incriminate him, or subject him to a penalty or for-
7 feiture, but no person shall be prosecuted or subjected to any pen-
8 alty or forfeiture except forfeiture of nomination or election to
9 office for or on account of any transaction, matter or thing concern-
10 ing which he may so testify, or produce evidence against him
11 in any criminal investigation or proceeding, except in an action
12 for perjury in giving such testimony.

Punitive Costs.

Sec. 18. In the decision of any court for a judicial in-
2 quiry into corrupt and illegal practices at any election, costs may
3 be awarded against the losing party; and the trial court shall
4 have power to award additional punitive costs against the peti-
5 tioner or petitioners, if it shall find that the allegations of the
6 petition are materially untrue, and that the petition was brought
7 from vexatious or malicious motives.

Appeals.

Sec. 19. Appeals except in the case of presidential electors, United States senators, or a member of the United States house of representatives, a member of the legislature and the executive officers of the state may be taken from the determination in such judicial inquiry in the same manner as appeals may be taken as provided by law in civil actions; but the party appealing shall in no case be entitled to or obtain a stay of proceedings. No injunction shall issue in any such judicial inquiry suspending or staying any procedure therein or connected therewith, except upon application to the court or the presiding judges thereof, upon notice to all parties and after hearing.

Sec. 20. All acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

Senate Bill No. 332

AN ACT to amend and re-enact sections 98-a-I, 98-a-III, 98-a-IV, 98-a-VI, 98-a-VII and 98-a-XI of chapter three of the code of West Virginia, edition of one thousand nine hundred and thirteen, (being serial sections one hundred and twenty-one, one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-six, one hundred and twenty-seven and one hundred and thirty-one of said code,) relating to the registration of voters.

Be it enacted by the Legislature of West Virginia:

That sections 98-a-I, 98-a-III, 98-a-IV, 98-a-VI, 98-a-VII, 98-a-XI of chapter three of the code of West Virginia, edition of one thousand nine hundred and thirteen, (being serial sections one hundred and twenty-one, one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-six, one hundred and twenty-seven and one hundred and thirty-one of said code), relating to the registration of voters, be amended and re-enacted so as to read as follows:

Section 98-a-I. The county court of each county in this state shall hold a regular or special session at the court house of their county on the first Monday in March next before the election in the year in which a President of the United States is to be elected, and in all other years on the first Monday in May next before the

6 election, and shall then appoint for each voting precinct in their
7 county two competent persons as registrars, one each from the po-
8 litical parties which, at the last preceding election, cast the high-
9 est number of votes in the county in which the election is to be
10 held. But, if at any time during said session, the county execu-
11 tive committee of either political party from which said regis-
12-21 trars are to be selected, through its chairman or secretary, shall
22 present to the court, or shall before any such appointments are
23 made, at any time file in the office of the clerk of the county court
24 of said county, a writing signed by the chairman of said committee,
25 on their behalf, requesting the appointment of a qualified voter of
26 their political party, and who shall appear to be competent to said
27 court, the court shall appoint the person named in such writing as
28 such registrar; or, if the court reject any one so recommended, it
29 shall notify the chairman of the committee of said rejection, and
30 such chairman shall recommend another to be so appointed, until
31 a competent person is accepted by the court. Every writing so pre-
32 sented shall be filed, preserved and kept by the clerk of said court
33 in his office. And if it shall appear that said writing was a for-
34 gery, and that it was forged by the person presenting the same to
35 the court, knowing it to be a forgery, upon conviction thereof such
36 person shall be confined in the penitentiary not less than one nor
37 more than five years; or, at the discretion of the court, he may be
38 fined not less than one hundred dollars, nor more than five hun-
39 dred dollars, and be confined in the county jail not less than three
40 nor more than six months. No person shall be eligible to appoint-
41 ment as registrar, or in any way act as such, who has been convicted
42 of a felony, or who holds any elective or appointive political office
43 under the laws of the state of West Virginia, or the United States,
44 or who is not a qualified voter in the precinct for which he is ap-
45 pointed, who cannot read or write the English language, or who is a
46-47 candidate to be voted for at such election; *provided*, that if in
48 any precinct there should not be a competent person in the opin-
49 ion of the chairman of the executive committee, or the county
50 court, the chairman of said committee may recommend some com-
51 petent voter of said county from some other precinct therein, to
52 act as such registrar. If any such registrar shall fail or refuse to
53 serve, the vacancy shall be filled either by the county court or by
54 the clerk thereof, in vacation, in the manner hereinbefore provided
55-56 for the appointment of registrars, and such clerk shall forthwith
57 notify such party of his appointment as such registrar, and record

58 such appointment in the minute book of said county court. If no
59 appointment is made to fill such vacancy, or if either of such reg-
60 istrars fail or refuse to act, it shall be lawful for the other registrar
61 to register the voters in such precinct and discharge his duties here-
62 under. Said registrars shall, before entering upon the discharge of
63 their duties, take an oath to support the constitution of the United
64 States, the constitution of West Virginia, and to perform the du-
65 ties of their office to the best of their ability, and that they will
66 support the nominees of the party for which they are respectively
67 appointed. Said oath shall be filed in the office of the clerk of the
68 county court.

Sec. 98-a-III. The clerk of the said county court shall with-
2 in five days after the appointment of said registrars as aforesaid,
3 notify each of the registrars so appointed of his appointment and
4 give the name of the other registrar, which notice may be sent by
5 registered mail, and the clerk shall likewise, on or before the third
6 Monday in March next before the election in the year in which a
7 president of the United States is to be elected, and in all other
8 years on the third Monday in May next before the election, deliver
9 or cause to be delivered, to said registrars, in person, if they shall
10 call at the office of said county clerk for the same, or to the resi-
11 dence or usual place of abode of said registrars, if they shall not
12 call in person at said county clerk's office for the same, copies of
13 the books and blanks prepared as aforesaid, for the registration of
14 voters of the respective precincts, and upon the receipt of the said
15 blanks, the said registrars shall meet together on the first Monday
16 in April next before the election in the year in which a president of
17 the United States is to be elected and in all other years on the first
18 Monday in June next before the election, and proceed to register
19 the names of all the qualified voters within their respective pre-
20 cincts, and shall endeavor to ascertain and register each and every
21 qualified voter entitled to vote within the precinct, and for this
22 purpose shall visit the usual place of abode of each and every voter ;
23 if either one of the registrars refuse or fail to register the voters
24 of his precinct, as herein required, then the other registrar may,
25 in the absence of such registrar, so refusing or failing, proceed
26 to make or complete such registration ; and it shall be the duty of
27 such registrar, so refusing or failing to do so, to copy the names of
28 the persons so registered by the other registrar, in his registration
29 book, and if he fails to do so, then it shall be the duty of the county
30 court to have the same done at its sittings, for the purpose of

31 completing and revising said registration list. From the action of
32 the county court an appeal may be taken to the circuit court, and
33 from the circuit court to the supreme court of appeals of this state.

34 Any registrar violating any of the provisions of this section
35 shall be fined not less than fifty dollars and confined in jail not less
36 than thirty days. And said registrars, to ascertain the qualified
37 voters, may examine the registration list made for such precinct
38 for the last preceding general election, and may transfer the names
39 of all voters registered on such former list, who, at the time of such
40 registration being made, may be qualified voters in said precinct,
41 to the registration being so made. But nothing herein contained
42 shall relieve said registrars from visiting the usual place of abode
43 of each and every voter and from ascertaining the qualified voters,
44 as in this act provided, and they shall in addition to examining
45 such former registration list and transferring the names of quali-
46 fied voters on such former lists as are here allowed, visit the usual
47 place of abode of each and every voter and ascertain and register
48 the qualified voters within their respective precincts, and shall
49 make a full and complete list of all such voters. And the clerk of
50 said county court shall furnish to each of said registrars a certified
51 copy of the registration list made for such precinct for the last
52 preceding general election. And in registering each voter, said
53 registrar shall (as far as possible) give the Christian name, and
54 his surname, and shall designate the place of his residence, his age
55 and color, and whether he is a native or foreign born, which infor-
56 mation shall be given in the proper column provided in the books
57 furnished by the clerk of the county court, as hereinbefore pro-
58 vided.

59 *Provided, however,* that when for any purpose a special elec-
60 tion is held in any county, district thereof, or independent district
61 thereof, at any time, it shall not be necessary for the registrars
62 to list or register any of the voters, and the voters shall be listed
63 and registered by the county court as provided in section seven
64 hereof.

Sec. 98-a-IV. Before the registrars shall register the
2 name of any person as a qualified voter, they must be satisfied
3 of his qualifications, or have him make the affidavit as hereinafter
4 provided, showing his right to register, and for the purpose of this
5 act they are hereby given authority to administer oaths and they
6 may require the person desiring to register to answer under oath
7 the following questions:

8 *First.* Are you a citizen of the United States?

9 *Second.* Are you a native or naturalized citizen?

10 If the person offering to be registered claims to be a natural-
11 ized citizen of the United States he shall produce for the inspec-
12 tion of the officer of registration a certificate or the evidence of his
13 naturalization, and also state, under oath, or affirmation, that he
14 is the identical person named therein; but the production of the
15 certificate shall not be required, if the person offering to be
16 registered states, under oath, when and where he was natural-
17 ized, that he had a certificate of naturalization, and that against
18 his will the same is lost, destroyed or beyond his power to pro-
19 duce the same; or, if he states under oath, that, by reason of the
20 naturalization of his parents or one of them, he has become a
21 citizen of the United States, and where and when his parents
22 were naturalized.

23 *Third.* Will you have resided in this state for one year
24 immediately preceding the coming election?

25 *Fourth.* Have you been absent from this state within a year
26 immediately preceding the coming election?

27 (If "Yes," when?)

28 *Fifth.* When you left this state did you leave for a temporary
29 purpose with the intention of returning, or for the purpose of
30 remaining away?

31 *Sixth.* Did you, while absent, look upon or regard this state
32 as your home?

33 *Seventh.* Did you, while absent, vote in any other state?

34 *Eighth.* Will you have resided in this county for sixty days
35 prior to the coming election?

36 *Ninth.* When did you last come to this county?

37 *Tenth.* Are you an actual resident of this precinct?

38-39 *Eleventh.* Are you twenty-one years of age or will be such
40 at the coming election, to the best of your knowledge and belief?

41 No other question shall be asked the applicant for registra-
42 tion, and no one except the registrars are permitted to ask said
43 applicant any question affecting his qualifications to vote at the
44 time such applicant is applying to said registrars for registration.

45 Every person shall be registered who will be entitled to vote
46 at the first election occurring after the registration by reason of
47 his arriving at twenty-one years of age before the time, or by
48 reason of his having resided for a sufficient length of time in the
49 state and county provided he is otherwise qualified.

Sec. 98-a-VI. The said registrars after having completed
2 the registration as far as in their power, shall for the purpose of
3 amending, correcting and completing said registration, sit together
4 at some convenient place within the voting precinct for two days,
5 commencing on the first Monday in May next before the election
6 in the year in which a president of the United States is to be elect-
7 ed, from nine o'clock, A. M., to one o'clock, P. M., and from two
8 o'clock, P. M. to nine o'clock, P. M., and in all other years on the
9 first Monday in July from nine o'clock, A. M., to one o'clock, P.
10 M., and from two o'clock, P. M., to nine o'clock, P. M., next before
11 the election, and shall give notice of the time and place of their
12 sitting for such registration and correction by posting written or
13 printed notices of the time and place of such sitting for ten days
14 prior thereto, at not less than five of the most conspicuous places
15 in said voting precinct, one of which shall be at the place of vot-
16 ing in said precinct. And at the time of said sitting the books of
17 registration shall be open for public inspection, and the said regis-
18 trars, in the manner hereinbefore provided, shall register all quali-
19 fied voters who have not theretofore been so registered by them,
20 and complete and finish the registration of the voters within their
21 said precinct, and make out two alphabetical lists of the regis-
22 tered voters within said precinct entitled to vote at the ensuing
23 election as registered by them, giving the information as to each
24 voter as hereinbefore required, and shall sign and return the same
25 to the clerk of the county court on or before the second Monday
26 in said month of May next before the election in the year in which
27 a president of the United States is to be elected, and in all other
28 years on or before the second Monday in said month of July next
29 before the election, and the same shall be open to the inspection of
30 the public when filed in said clerk's office until five days prior to
31 the election.

32 Any person desiring a copy of the registered voters made by
33 said registrars as returned by them to the county court, may re-
34 quest the same and the registrars shall make and deliver a copy
35 of said registered voters upon the payment to them of two cents
36 a name for each copy so furnished.

Sec. 98-a-VII. It shall be the duty of the county court of each
2 county to convene in regular or special session on the second Mon-
3 day in the month next preceding any and every election to be held
4 in that county, including both primary and general election, ex-
5 cept those elections in which no registration is required, and on

6 the fifth day preceding any special election in any county, district
7 or independent district, for the purpose of hearing any and all
8 matters as to the registration of voters, at which said meeting of
9 the county court they shall examine the returns made to them by
10 the registrars throughout the county, or in case of special election,
11 throughout the county, district or independent district wherein
12 such special election is to be held, and filed with the clerk of the
13 county court as hereinbefore provided, and if they are satisfied that
14 persons have been registered who are not entitled to vote, they shall
15 cause their names to be stricken from the list of voters, and if they
16 should find that persons' names have been omitted by the registrars
16-a who should be registered, either because the same have been omit-
17 ted or by reason of such persons having become entitled to vote
18 since such registration was made, the court shall cause their names
19 to be registered as qualified voters, and an affidavit taken before
19-a either one of the registrars, while they are making such registra-
19-b tion, as provided in chapter three of the code of West Virginia,
19-c one thousand nine hundred and thirteen, shall be *prima facie*
19-d evidence before the county court that said applicant is entitled
19-e to registration in the voting precinct in which he applies for
19-f registration, and also *prima facie* evidence on appeal to the
19-g circuit court; *provided*, that such affidavit shows that the ap-
19-h plicant is entitled to registration: in case of special elections
20 at any time in the county, district or independent district of the
21 county, it shall be the duty of the county court when so sitting
22 five days preceding any such special election as hereinbefore pro-
23 vided, to register and list the voters in the county, district or in-
24 dependent district in which such special election is about to be held,
25 and in doing so the county court shall adopt the registration by reg-
26 istrars at the next preceding election prior thereto, and if the coun-
27 ty court is satisfied that persons have been registered who are not
28 then entitled to vote at such special election, they shall cause their
29 names to be stricken from the list of voters, and if they find that
30 persons' names have been omitted by the registrars who should be
31 registered then, either because the names of same have been omit-
32 ted or by reason of such person having become entitled to vote
33 since such registration for the then next preceding election, was
34 made, the court shall cause their names to be registered as qualified
35 voters; the county court shall accordingly correct the list so return-
36 ed by the registrars for such county, district or independent district
37 wherein and wherefor such special election is to be so held, and

38 thereto certify by order entered of record, and thereby the said
39 county court shall be held to have duly registered and listed the
40 voters in such county, district and independent districts wherein
41 such special elections are held: but in no case shall the court cause
42 the name of any voter to be stricken from the registration
42-a list, until he shall have had five days' notice of the ap-
43 plication to strike his name from such registration list, and he
44 shall have the right to rebut any evidence produced against him,
45 and shall have his name restored to said list if improperly stricken
46 therefrom. From the decision of the county court an appeal may
47 be taken by the voters or either of the registrars or any voter of
48 said county, to the circuit court of said county, and from the
49 decision of the circuit court an appeal may likewise be taken to
50 the supreme court of appeals. In no case shall the clerk enter any
51 name on the list of registered voters, or strike any name there-
52 from, except by order of the county court entered of record. And
53 any person who shall enter any name upon the registration list or
54 omit any name from the registration list without an order of the
55 court, entered of record so directing, shall be guilty of a felony,
56 and upon conviction he shall be confined in the penitentiary not
57 less than one nor more than three years for each offense.

Sec. 98-a-XI. No person shall be allowed to vote at any election
2 hereafter held in this state unless he shall have been registered as
3 herein provided and the commissioners of every election shall allow
4 only those to vote whose names appear upon the registration books
5 furnished by the clerk of the county court to them, or who present
6 a proper certificate of transfer, as herein provided; except that any
7 person who has not been registered as herein required, may apply
8 on the day of any election to the commissioners of election to be
9 registered on said day by said commissioners before voting, and,
10 upon being registered by said commissioners, shall be allowed to
11 vote at such election: but before such person is permitted to vote, he
12 shall make and sign an affidavit before one of the com-
13 missioners, or some one authorized to administer oaths, which
14 affidavit shall contain the same allegations and informa-
14-a tion as may be required by the registrars under this
15 act in listing voters and, in addition thereto, such person shall
16 state, under oath, the cause and reasons of his not having been reg-
17 istered in accordance with the other provisions of this act. Said
18 affidavit shall also contain the names of two creditable and reliable
19 qualified voters of the precinct in which said person offers to vote,

20 who shall be known to said election commissioners, or other per-
21 son before whom he shall make affidavit, to be creditable and re-
22 liable qualified voters of said precinct, and said two persons shall
23 also make and sign an affidavit before some one entitled to admin-
24 ister oaths, stating under oath that said person, so desiring to vote
25 and who has made the affidavit hereinbefore required, is well known
26 to them and that they believe the statements made by him in his affi-
27 davit to be true, which affidavits of said person offering to vote and
28 said two creditable and reliable qualified voters shall be accepted by
29 said commissioners; and, upon the making and presentation of said
30 affidavits, containing the matters herein required, said person, so
31 desiring to vote, shall thereupon be deemed a qualified voter and
32 his name shall be listed upon the registration list of the precinct in
33 which he offers to vote and he shall be permitted to vote by said
34 commissioners of election. And any commissioner of election who
35 shall wilfully violate any of the provisions of this act shall be
36 deemed guilty of a misdemeanor, and upon conviction thereof shall
37 be fined not less than fifty nor more than one hundred dollars, and
38 imprisoned in the county jail not less than ten nor more than
39 ninety days for every such offense.

40 All acts or parts of acts inconsistent herewith are hereby re-
41 pealed.

Senate Bill No. 107

[BY MR. LOWE—BY REQUEST.]

Introduced January 19, 1915. Referred to the Committee on Medicine and Sanitation. January 27, reported back with the recommendation that it do pass. January 29, taken up in regular order, read a first time and ordered to a second reading.

A BILL to regulate the practice of drugless therapeutics in the state of West Virginia; to provide a state board of examiners; to provide a method and system licensing drugless practitioners; to fix a fee for the issuance of said license, and the manner of disposal of the funds arising therefrom; to provide information for the public as to the qualification of licensed practitioners; to provide for the punishment of persons violating the provisions of this act; and to provide for the repeal of acts or parts of acts conflicting with the provisions of this act.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The practice of drugless therapeutics is defined to be
2 any scientific method of treatment adapted to assist nature in the
3 relief or cure or prevention of disease or infirmity without the use
4 of drugs or major surgery.

Sec. 2. The governor shall appoint, within thirty days after
2 the passage of this act, a board of examiners in drugless thera-
3 peutics. Such board of examiners shall consist of one member
4 from each separate system of drugless therapeutics who shall
5 possess sufficient knowledge of theoretical and practical drugless
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6 therapeutics, or some particular system of drugless therapeutics in
7 which he or she has a certificate to practice, or shall be entitled to
8 practice under this act; and who shall have been residents of this
9 state actually engaged in the practice of drugless therapeutics, or
10 any system or systems of the same, for at least six months. The
11 term of each member of said board shall be for three years, or
12 until his successor is appointed, and vacancies shall be filled for the
13 unexpired term only; but in the original appointment of the mem-
14 bers of said board, one shall be appointed for the term of one year,
15 one for the term of two years, and one for the term of three years
16 from July first, one thousand nine hundred and fifteen. No one
17 system of drugless therapeutics shall at any one time be repre-
18 sented on the board of examiners by more than one member, and
19 any unrepresented branch or system entitled to representation
20 under and by virtue of this act may obtain such representation
21 at any time by application in writing to the governor. It shall be
22 the duty of the secretary of said board herein provided for to make
23 a list of all licensed drugless practitioners in the state, and furnish
24 such list yearly to the governor, including information of the drug-
25 less system or systems practiced by each practitioner.

Sec. 3. Within fifteen days after their appointment the ap-
2 pointees of said examining board shall meet at Charleston, West
3 Virginia, and organize said board, and elect a president and secre-
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4 tary from its membership, shall adopt a common seal, and shall
5 make all necessary rules and regulations, not inconsistent with the
6 laws of this state and of the United States, whereby to perform
7 the duties and transact the business required under the provisions
8 of this act. The members of said board shall receive ten dollars
9 per day and traveling expenses to and from the place of meeting to

10 be paid out of the fund in the state treasury provided for in section
11 seven herein. Subsequent meetings for organization shall be held
12 annually.

Sec. 4. Every person desiring to begin or to continue the
2 practice of drugless therapeutics or any system or systems thereof
3 later than six months after the passage of this act, except as herein-
4 after provided, upon presentation of satisfactory evidence, verified
5 by oath, that he or she is more than twenty-one years of age, and of
6 good moral character, and attached to said affidavit or affidavits an
7 application in writing, on a form provided by said board, directed
8 to the secretary of said board at least ten days before the com-
9 mencement of the examination; and at the time said applicant
10 presents himself for examination, present to said board a diploma
11 from a standard school or college of drugless therapeutics, which
12 at and prior to the time of granting said diploma, was giving a
13 resident course of study to comply with a standard to be set by the
14 said board for each drugless system; said standard to be based

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15 upon inquiries and investigations on the part of the board as to the
16 requirements of schools and colleges of good standing teaching
17 the different drugless systems, shall be examined by said board to
18 determine his or her qualifications. Such proof shall consist of
19 three affidavits, one of which shall be by a member of the West
20 Virginia drugless therapeutical association, and the other two by
21 persons residing in the same county with applicant. And such
22 examination shall be written in the English language and shall be
23 in such of the following or other subjects as may be called for by a
24 standard to be decided upon by the board for each drugless system;
25 namely, anatomy, physiology, histology, chemistry, pathology, bac-
26 teriology, hygiene, prophylaxis, dietetics, obstetrics, gynecology,
27 symptomatology, minor surgery, jurisprudence, toxicology, diag-
28 nosis and theory and practice of drugless therapeutics. Every
29 candidate successfully passing such examination in the particular
30 system of drugless therapeutics of which he desire to practice in
31 this state, shall be registered by said board as possessing the quali-
32 fications required by this act; and shall receive from said board a
33 certificate plainly stating all subjects in which the applicant has
34 successfully passed, and the particular system or systems of drug-
35 less therapeutics he or she is permitted to practice; but any person
36 who shall submit to said board of examiners satisfactory proof as
37 to his character, competency and qualifications, and that he has

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38 been continuously in the practice of drugless therapeutics, or some
39 system, or systems thereof, in this state for more than six months
40 prior to the passage of this act, may upon recommendation of said
41 board receive a certificate of exemption from such examination,
42 which certificate shall be registered and entitle him or her to prac-
43 tice drugless therapeutics, or the particular system, or systems,
44 which he has been practicing in this state prior to the passage of
45 this act, and which he or she has been found to be qualified.
46 Every person entitled to a certificate of exemption as herein pro-
47 vided, must make application therefor and present the evidence to
48 entitle him thereto, on or before the expiration of six months after
49 the passage of this act, or he shall be deemed to have waived his
50 right to such certificate. Before any certificate is issued it shall
51 be numbered and recorded in a book kept for that purpose by the
52 secretary of said board of examiners, and its number shall be noted
53 upon the certificate.

Sec. 5. Every person to whom a certificate of either regis-
2 tration or exemption shall be issued, shall immediately cause the
3 same to be recorded in the county clerk's office, in a book kept for
4 that purpose, in the county of his residence, and also recorded in
5 the county wherein he shall have his chief office for practicing
6 drugless therapeutics, or any system, or systems of the same; every
7 person practicing drugless therapeutics must display his certificate
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8 of registration or exemption in a conspicuous place in his principal
9 office wherein he practices therapeutics, or any system or systems
10 of the same; and, whenever required, exhibit such certificate to
11 said board of examiners or its authorized representative.

Sec. 6. Any person duly authorized and practicing drugless
2 therapeutics or any system thereof in any state or territory of the
3 United States, or District of Columbia, may practice as such in
4 this state, *provided*, he submit proper evidence that he has been a
5 resident practitioner of drugless therapeutics in such state or terri-
6 tory for a period of two years. But this section shall not be con-
7 strued to admit any one to practice drugless therapeutics or any
8 system thereof in this state on a license granted by another state,
9 who resides or intends to make his residence in this state at the
10 time he makes application for license to practice, or begins practic-
11 ing in a state or territory where a license is not required.

Sec. 7. The fee for such examination shall be fifteen dollars;

2 for certification of registration, ten dollars; and for certificate of
3 exemption, twenty-five dollars, and those registering from another
4 state before said board shall pay a fee of twenty-five dollars. Such
5 fees shall be paid into the treasury of the state and the legislature
6 shall appropriate therefrom an amount sufficient to pay all proper
7 expenses incurred pursuant to this act. The fee to be paid to the
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8 clerk of the county court for recording a certificate shall be one
9 dollar.

Sec. 8. Drugless practitioners duly licensed as herein pro-
2 vided shall have in the practice or conduct of their profession all
3 the rights, powers and privileges of any and all practicing physi-
4 cians or doctors of any school, class or division in the treatment of
5 any and all diseases, ailments or disabilities of the human body
6 whatever, or the health of the individual, and shall observe and be
7 subject to all state and municipal regulations relating to the con-
8 trol of contagious diseases and shall make reports, of such con-
9 tagious diseases as shall come under such practitioners supervision,
10 to the proper officers or those having charge of such cases. But
11 nothing in this act shall be construed to give drugless practitioners
12 the right to practice major surgery, nor administer drugs.

Sec. 9. Said board shall have power to revoke any certificate
2 granted by it under this act, for conviction of crime, habitual
3 drunkenness, fraud, or the use of narcotic drugs, or deceit in his
4 practice, or grossly incompetent to practice drugless therapeutics,
5 or the particular system or systems thereof in which he has been
6 licensed to practice; *provided, however,* that before any certificate
7 shall be revoked the holder thereof shall have written notice of the
8 charge or charges made against him, and the day specified in said
9 notice, at least ten days after the service thereof, at which a public

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10 hearing is to be given and where the accused shall have an oppor-
11 tunity to produce testimony in his behalf and to confront the
12 witnesses against him. Three members of the board shall con-
13 stitute a quorum at such hearing.

Sec. 10. No person not a holder of a certificate of registra-
2 tion or exemption duly issued to him and recorded as herein pro-
3 vided shall, six months after the passage of this act, practice drug-
4 less therapeutics or any system of the same within this state. No
5 person shall falsely personate a registered practitioner of drugless
6 therapeutics of a like or different name, nor buy, sell, or fraudu-

7 lently obtain a certificate of registration or exemption issued to
8 another practicing, or offering to practice, drugless therapeutics;
9 or the public representation of being qualified to practice the same
10 by any person not authorized to practice, as provided in this act,
11 shall be a misdemeanor, and upon conviction for each offense shall
12 be fined not less than fifty dollars nor more than one hundred
13 dollars, or imprisoned more than six months, or both.

Sec. 11. Nothing in this act shall be construed to affect
2 practitioners of osteopathy or Christian science.

Sec. 12. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

Senate Bill No. 79

AN ACT to amend and re-enact section seven of chapter thirteen,
acts of the legislature of one thousand nine hundred and thirteen,
relating to prohibiting the manufacture, sale and keeping for
sale of intoxicating liquors and the enforcement of the amend-
ment of section forty-six of article six of the state constitution
ratified on the fifth day of November, one thousand nine hundred
and twelve; and to further amend said chapter thirteen of the acts
of the legislature of one thousand nine hundred and thirteen by

enacting as additional thereto seven sections, to be numbered
sections twenty-seven to thirty-three inclusive, as parts thereof.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter thirteen, acts of the legislature
2 of nineteen hundred and thirteen, relating to prohibiting the man-
3 ufacture, sale, and keeping for sale of intoxicating liquors, and
4 the enforcement of the amendment of section forty-six of article
5 six of the state constitution ratified on the fifth day of November,
6 one thousand nine hundred and twelve, be amended and re-enacted
7 so as to read as hereinafter set out; and that said chapter thirteen
8 of the acts of the legislature of one thousand nine hundred and
9 thirteen be and is hereby further amended by enacting as addi-
10 tional thereto seven sections as parts thereof, numbered twenty-
11 seven to thirty-three inclusive, as hereinafter set out.

Sec. 7. It shall be unlawful for any person to keep or
2 have, for personal use or otherwise, or to use, or permit another to

3 have, keep or use, intoxicating liquors at any restaurant, store,
4 office building, club, place where soft drinks are sold (except
5 a drug store may have and sell alcohol and wine as provided by
6 sections four and twenty-four), fruit stand, news stand, room, or
7 place where bowling alleys, billiard or pool tables are maintained,
8-9 livery stable, boat house, public building, park, road, street or
10 alley. It shall also be unlawful for any person to give or furnish
11 to another intoxicating liquors, except as otherwise hereinafter
12 provided in this section. Any one violating this section shall be
13 guilty of a misdemeanor, and upon conviction thereof shall be
14 fined not less than one hundred dollars, nor more than five hun-
15 dred dollars, and be imprisoned in the county jail not less than
16 two nor more than six months; *provided, however*, that nothing
17 contained in this section shall prevent one, in his home, from hav-
18 ing and there giving to another intoxicating liquors when such
19 having or giving is in no way a shift, scheme or device to evade the
20 provisions of this act; but the word "home" as used herein, shall
21 not be construed to be one's club, place of common resort, or room
22 of a transient guest in a hotel or boarding house. And, *provided*,
23 *further*, that no common carrier, for hire, nor other person, for
24 hire or without hire, shall bring or carry into this state, or carry
25 from one place to another within the state, intoxicating liquors for
26 another, even when intended for personal use; except a common
27 carrier may, for hire, carry pure grain alcohol and wine, and such
28 preparations as may be sold by druggists for the special purposes
29 and in the manner as set forth in sections four and twenty-four;
30 and, *provided, further, however*, that in case of search and seizure,
31 the finding of any liquors shall be *prima facie* evidence that the
32 same are being kept and stored for unlawful purposes.

Sec. 27. If any corporation or association shall violate any
2 of the provisions of this act, any officer, agent or employee thereof
3 acting for it in any such unlawful act, or authorizing the same to
4 be done, shall be personally guilty thereof the same as though such
5 officer, agent or employee himself had committed the offense, and
6 shall be subject to all of the fines, penalties and imprisonments
7 therefor.

Sec. 28. It shall be unlawful for any person to give, under
2 the proviso in section seven, or otherwise, intoxicating liquors to
3 any minor, person of intemperate habits, or one who is addicted to
4 the use of any narcotic drug. If any person shall violate the pro-
5 visions of this section he shall be guilty of a misdemeanor, and,

6 upon conviction, shall be fined not less than one hundred dollars.
7 nor more than five hundred dollars, and imprisoned in the county
8 jail not more than six months.

Sec. 29. If any county, district or municipal officer, or any
2 municipal police, shall fail, refuse or neglect to discharge any duty
3 imposed upon him by law, prohibiting the manufacture, sale, keep-
4 ing and storing for sale of intoxicating liquors, he shall be re-
5 moved from office in the manner provided in this section. Such
6 removal shall be made by the circuit court of the county wherein
7 such officer resides. The charges against any such officer shall be
8 reduced to writing, and entered of record by the court, and a sum-
9 mons shall thereupon be issued by the clerk of such court, contain-
10 ing a copy of the charges, and requiring the officer named therein
11 to appear and answer the same on a day to be named therein, which
12 summons may be served in the same manner as a summons com-
13 mencing an action may be served, and the service must be made
14 at least five days before the return day thereof. And the court, it-
15 self shall, without a jury, hear the charges, and upon satisfactory
16 proof thereof, remove any such officer from the discharge of the
17 duties of his office, and place the records, papers and property of
18 his office in the possession of some other officer or person for safe-
19 keeping until the vacancy is filled. Any vacancy created under
20 this section shall be filled in the manner required by law as to
21 county and district officers, and in the manner prescribed by the
22 ordinances of the municipality. Any citizen of the county, dis-
23 trict or municipality, as the case may be, or the commissioner of
24 prohibition, may prefer and prosecute to final judgment charges
25 for removal against any of the officers, including municipal po-
26 lice, mentioned in this section. The word "officer", as used here-
27 in, shall include and embrace municipal police. Either party shall
28 have the right of appeal to the supreme court of appeals of the
29 state from the judgment of the circuit court.

Sec. 30. Whenever it shall be made to appear to any crimi-
2 nal or circuit court, having the trial of offenses under this act,
3 that the state cannot have a fair and impartial trial by jury in the
4 county wherein an indictment has been returned, charging an of-
5 fense under this act, the court shall enter an order of record of
6 such effect. In said order the court shall fix a day for the trial of the
7 accused, and in such order shall be indicated the county from
8 which jurors shall be drawn to try the accused, and the number of
9 jurors to be drawn. An attested copy of such order shall be certi-

10 fled to the judge of the circuit court of the county designated, and
11 thereupon the judge of such circuit court shall, by order, direct
12 that a jury be drawn, in the manner provided by law for the draw-
13 ing of petit jurors in his county, and proceedings respecting the
14 drawing of such jurors, including the names of the jurors, shall
15 be certified by the clerk of the circuit court of the county desig-
16 nated to the clerk of the court wherein the accused is to be tried.
17 Thereupon writ of *venire facias* shall be issued by the clerk of the
18 court wherein the accused is to be tried, directed to the sheriff of
19 the county wherein the jurors have been drawn, commanding him
20 to summon the jurors so drawn to attend for jury service in the
21 county wherein the accused is to be tried upon the day named in the
22 writ. Said jurors shall attend for the purpose of the trial of the
23 accused, and the jury shall be selected in the manner provided by
24 law. For their services, the jurors so drawn shall be paid the per
25 diem and mileage out of the same funds that the jurors of the
26 county wherein the accused is to be tried are paid.

Sec. 31. It shall be unlawful for any person to bring or
2 carry into the state, or from one place to another within the state,
3 even when intended for personal use, liquors exceeding in the ag-
4 gregate one-half of one gallon in quantity, unless there is plainly
5 printed or written on the side or top of the suit case, trunk or other
6 container, in large display letters, in the English language, the con-
7 tents of the container or containers, and the quantity and kind of
8 liquors contained therein. If any person shall violate this section,
9 he shall be deemed guilty of a misdemeanor; and the liquors in
10 the possession of any person violating this section may be seized.
11 and shall be conclusive evidence of the unlawful keeping, storing
12 and selling of same by the person having such liquors in his pos-
13 session; and upon the conviction of such person he shall be sub-
14 ject to the fines and imprisonments as provided for in section
15 three.

Sec. 32. A justice of the peace shall have concurrent juris-
2 diction with the circuit court and other courts having criminal
3 jurisdiction in his county for the trial of first offenses arising under
4 this act. The defendant shall be entitled to a trial by jury, if he
5 shall demand the same, upon depositing with the justice the
6 amount as fixed by law for payment for attendance of the jurors.
7 The state shall have the same right as the defendant to peremptorily
8 challenge any two of the jurors selected and returned by the officer
9 under the writ issued by the justice commanding the summoning
10 of the same. Upon conviction of the accused, the justice shall

11 impose the fines and penalties and required bonds as provided by
12 this act for first offenses; and shall thereupon certify to the prose-
13 cuting attorney, for filing in his office, a transcript from his
14 docket of the judgment in the case. Such transcript shall be ad-
15 missible evidence upon the trial of the accused for any second of-
16 fense alleged in an indictment found and returned against him. The
17 justice shall also certify to the prosecuting attorney copies of all
18 bonds given by the defendant upon conviction. The state shall
19 have the same right of appeal as the defendant from any judgment
20 of the justice. Whenever the prosecuting attorney of the county
21 shall appear for the state for any prosecution for any offense un-
22 der this act, there shall be allowed and taxed as part of the costs
23 a fee of ten dollars, to be recovered and collected by the prosecuting
24 attorney in the same manner as like fees are collected in criminal
25 and other courts wherein trials are had upon indictments. The
26 provisions of section twenty of this act shall apply to trials before
27 a justice of the peace. *Provided, however,* that in any prosecution
28 before a justice of the peace, the prosecuting attorney, or the state
29 commissioner of prohibition or any of his deputies, shall have the
30 right, before trial, to elect whether the case shall be tried and
31 judgment entered, or whether the justice shall hold a preliminary
32 hearing to determine whether the accused shall be held to the
33 grand jury; *provided, however,* that should the defendant desire
34 to confess, then neither the prosecuting attorney, nor the state
35 commissioner of prohibition or any of his deputies, shall have
36 such right to elect, and the justice shall enter judgment upon the
37 confession.

Sec. 33. Any person called on behalf of the state to testify
2 concerning any violations of this act, who shall give freely and
3 truthfully any testimony tending in any way to incriminate him-
4 self, shall be immune from prosecution under this act.

Senate Bill No. 89

AN ACT to amend and re-enact sections one, two, three, four, five,
nine, ten, fourteen, fifteen and twenty-two, of chapter nine of
the acts of one thousand nine hundred and thirteen, creating a
public service commission, prescribing its powers and duties, and
penalties for violation of provisions of said chapter, and to add

thereto six sections to be known as sections twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight, enlarging the powers and duties of said public service commission, prescribing additional penalties and giving to the commission power to punish for contempt.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, nine, ten, fourteen, fifteen and twenty-two, of chapter nine of the acts of one thousand nine hundred and thirteen be amended and reenacted and that six additional sections be added to said chapter to be known as sections twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight, which amended sections and added sections shall read as follows:

Section 1. There shall be, and there is hereby created, a public service commission of West Virginia, and by that name the commission may sue and be sued.

The public service commission shall consist of three members who shall be appointed by the governor with the advice and consent of the senate, and who shall have and possess all the powers and duties provided in this chapter as hereby amended.

On or before the first day of June, one thousand nine hundred and fifteen, the governor shall appoint three commissioners, who shall be citizens and residents of this state, one of whom shall be a lawyer of not less than ten years actual experience at the bar. Said commission shall immediately enter upon their duties and hold office for two, four, and six years respectively from the first day of June, one thousand nine hundred and fifteen, the term of each to be designated by the governor, but their successors shall be appointed for the term of six years each, except that any person appointed to fill a vacancy shall serve only for the term of the commissioner whom he succeeds.

The commissioners before entering upon their duties shall take, subscribe and file with the secretary of state the oath provided by section five of article four of the constitution.

The governor may remove any commissioner for incompetency, neglect of duty, gross immorality or malfeasance in office, giving such commissioner a copy of the charges against him, and an opportunity to be publicly heard in person or by counsel in his own defense, upon not less than ten days' notice. If such commissioner shall be removed, the governor shall file in the office of the secretary of state a complete statement of all the charges made against such

29 commissioner, and his findings thereunder, together with a com-
30 plete record of the proceedings; and his decision therein shall be
31 final.

32 The governor shall annually designate one of the commissioners
33 as chairman thereof.

34 The concurrent judgment of two of the commissioners shall be
35 deemed the action of the commission when in session as a board,
36 and no vacancy in the commission shall embarrass the right of
37 the remaining commissioners to exercise all of the powers of the
38 commission.

39 No person while in the employ or holding any official relation
40 to any public service corporation subject to the provisions of this
41 act, or holding any stocks or bonds thereof, or who is pecuniarily
42 interested therein, shall enter upon the duties of or hold said
43 office. Nor shall any of said commissioners be a candidate for
44 or hold public office, or be a member of any political committee
45 while acting as such commissioner; nor shall any commissioner
46 or employee of said commission receive any pass, free transporta-
47 tion or other thing of value, either directly or indirectly, from
48 any person, firm or corporation subject to the provisions of this
49 act. In case any of said commissioners shall become a candidate
50 for any other public office, or shall become a member of any
51 political committee, his office as commissioner shall be *ipso facto*
52 vacated.

53 The commission shall appoint a secretary, whose salary shall be
54 not more than five thousand dollars per annum, and all fees and
54-a emoluments coming into his hands shall be turned into the state
54-b treasury, and such other employees as may be necessary to
54-c carry out the provisions of this act, and fix their compensation,
55 who shall hold office during the pleasure of the commission.
56 It shall be the duty of the secretary to keep a full and true
57 record of all proceedings of the commission, to issue all neces-
58 sary process, returns and notices, to keep all books, maps, doc-
59 uments and papers ordered filed by the commission, and all
60 orders made by the commission or approved and confirmed by
61 it and ordered to be filed; and shall be responsible to the com-
62 mission for the safe custody and preservation of all such doc-
63 uments in its office. He may administer oaths in all parts of
64 the state, so far as the exercise of such power is properly inci-
65 dental to the performance of his duty or that of the commis-
66 sion.

67 Each of the commissioners shall receive a salary of six thousand
68 dollars per annum, to be paid monthly. The general office shall
69 be kept at the capitol of the state, and kept open each working
70 day between the hours of nine o'clock a. m., and five o'clock p. m.,
71 and in charge of the secretary or some other competent person.
72 But hearings and the taking of evidence may be had at such
73 times and places and in each particular case as the commission may
74 designate.

75 The attorney general shall perform legal service under this
76 act when required by the commission; *provided, however*, the
77 commission in its discretion may employ counsel to look after
78 legal matters of the commission, and fix his compensation, which
79 shall be paid as other employees of the commission.

80 The terms of office of the public service commissioners now in
81 office, or their successors, unless sooner terminated, shall cease
82 and determine on the thirty-first day of May, one thousand nine
83 hundred and fifteen.

Sec. 2. The commission shall prescribe the rules of procedure
2 and for taking evidence in all matters that may come before it,
3 and enter such orders as may be just and lawful.

4 In the investigations, preparations and hearings of cases, the
5 commission may not be bound by the strict technical rules of
6 pleading and evidence, but in that behalf it may exercise such
7 discretion as will facilitate their efforts to understand and learn
8 all the facts bearing upon the right and justice of the matters
9 before them.

10 The commission shall have a seal bearing the following inscrip-
11 tion: "The Public Service Commission of West Virginia." The
12 seal shall be affixed to all writs and authentications of copies of
13 records, and to such other instruments as the commission shall
14 direct. All courts shall take judicial notice of said seal.

Sec. 3. The jurisdiction of the commission shall extend to
2 and include:

3 (a) Common carriers, railroads, street railroads, express com-
4 panies, sleeping car companies, freight lines, car companies, toll
5 bridges, ferries, and steam and other boats engaged in the trans-
6 portation of freight or passengers; and

7 (b) Telegraph and telephone companies and pipe line com-
8 panies for the transportation of oil, gas or water; and

9 (c) Gas companies, electric lighting companies and municipi-

10 palities furnishing gas or electricity for lighting, heating or power
11 purposes; and

12 (d) Hydro-electric companies for the generation and trans-
13 mission of light, heat or power, and water companies, and munici-
14 palities furnishing water; and

15 (e) All other public service corporations, and all persons,
16 associations, corporations and agencies employed or engaged in
17 any of the business hereinbefore enumerated.

18 The words "Public Service Corporation" used in this act shall
19 include all persons, associations of persons, firms, corporations,
20 municipalities and agencies engaged or employed in any business
21 herein enumerated, or in any other public service business whether
22 above enumerated or not, whether incorporated or not.

Sec. 4. Every person, firm or corporation engaged in a pub-
2 lic service business in this state shall establish and maintain ade-
3 quate and suitable facilities, safety appliances or other suitable
4 devices, and shall perform such service in respect thereto as shall
5 be reasonable, safe and sufficient for the security and convenience
6 of the public, and safety and comfort of its employes, and in
7 all respects just and fair, and without any unjust discrimination
8 or preference. All charges, tolls, fares and rates shall be just and
8-a reasonable, and no change shall be made in any tariffs, rates,
8-b joint rates, fares, tolls, schedules or classifications in force
8-c at the time this act takes effect, except as hereinafter pro-
9 vided. Every railroad company shall permit switch connections
10 for intra-state business to be made with its tracks at situa-
11 ble and safe points, by other carriers or shippers, upon such
12 terms and conditions as the commission may prescribe, when-
13 ever the business to be offered by the connecting company or
14 shipper, in the judgment of the commission, justifies it. Ev-
15 ery railroad and other transportation company may be required
16 by the commission to establish and maintain such suitable public
17 service facilities and conveniences as may be reasonable and just;
18 to make reasonable connection with trains on branch lines of such
19 railroads and with all connecting railroad lines; to require any
20 passenger trains to stop at junctions or intersections with other
21 railroads; and may prescribe the number of men required to
22 constitute safe crews for the handling of trains on any steam
23 railroad in this state or any division of any such railroad. No
24 steam railroad shall discontinue any regular passenger train, or
25 other public service facility, or change any regular passenger

26 train schedule or time table without first obtaining authority
27 from the commission so to do.

Sec. 5. The commission is hereby given power to investigate
2 all methods and practices of public service corporations or other
3 persons subject to the provisions of this act; to require them to
4 conform to the laws of this state and to all rules, regulations and
5 orders of the commission not contrary to law; and to require
6 copies of all reports, rates, classifications, schedules and time
7 tables in effect and used by such corporation or other person,
8 to be filed with the commission, and all other information desired
9 by the commission, relating to such investigation and requirements.
10 The commission may compel obedience to its lawful orders by
11 proceedings of mandamus or injunction or other proper pro-
12 ceedings in the name of the state in any circuit court having
13 jurisdiction of the parties or of the subject matter, or the supreme
14 court of appeals direct, and such proceedings shall have priority
15 over all pending cases. The commission may change any intra-
16 state rate, charge or toll which is unjust or unreasonable and
17 may prescribe such rate, fare, charge or toll as would be just and
18 reasonable, and change or prohibit any practice, device or method
19 of service in order to prevent undue discrimination or favoritism
20 as between persons, localities or classes of freight; *provided*, that
21 the commission shall not reduce any rate, toll or charge within
22 ten years after the completion of the railroad or plant to be
23 used in the public service below a point which would prevent
24 such public service corporation, person, persons or firm from
25 making a net earning of eight per centum per annum on the cost
26 of construction and equipment of said railroad or plant. But in
27 no case shall the rate, toll or charge be more than the service is
28 reasonably worth, considering the cost thereof.

29 Every order entered by the commission shall continue in
30 force until the expiration of the time, if any, named by the
31 commission in such order, or until revoked or modified by the
32 commission, unless the same be suspended, modified or revoked
33 by order or decree of a court of competent jurisdiction.

Sec. 9. No person, firm or corporation subject to the provisions
2 of this act shall modify, change, cancel or annul any rate, joint
3 rate, fares, classifications, charge or rental except after thirty days'
4 notice to the commission and the public, which shall plainly state
5 the changes proposed to be made in the schedule then in force and
6 the time when the changed rates, fares or charges shall go into ef-

7 feet, unless a written protest is made by the public service com-
7-a mission, in which case the proposed rate shall stand suspended
7-b until it is determined by the commission whether or not such
7-c proposed rate is just or reasonable. *Provided*, in lieu of the
7-d written protest, the commission may enter an order prohibiting
7-e such person, firm or corporation from putting such proposed new
7-f rate into effect pending the hearing and final decision of the mat-
8 ter and the proposed changes shall be shown by printing new sched-
9 ules, or shall be plainly indicated upon the schedules in force at the
10 time, and kept open to public inspection: *provided, however*, that
11 the commission may, in its discretion, and for good cause shown,
12 allow changes upon less time than the notice herein specified, or
13 may modify the requirements of this section in respect to publish-
14 ing, posting and filing of tariffs, either by particular instructions
15 or by general order.

16 Whenever there shall be filed with the commission any schedule
17 stating a change in the rates, fares or charges, or joint rates, fares
18 or charges, or stating a new individual or joint rate, fare or charge
19 or joint classification or any new individual or joint regulation
20 or practice affecting any fare, rate or charge the commission shall
21 have, and it is hereby given authority, either upon complaint or
22 upon its own initiative without complaint, at once, and, if it so
23 orders, without answer or other form of pleading by the interested
24 parties, but upon reasonable notice to enter upon a hearing con-
25 cerning the propriety of such rate, fare, charge, classification,
26 regulation or practice; and pending such hearing and the decision
27 thereon the commission, upon filing with such schedule and de-
28 livering to the carrier or carriers or public service corporation
29 affected thereby, a statement in writing of its reasons for such
30 suspension, may suspend the operation of such schedule and defer
31 the use of such rate, fare, charge, classification, regulation or
32 practice, but not for a longer period than one hundred and twenty
33 days beyond the time when such rate, fare, charge classifica-
34 tion, regulation or practice would otherwise go into effect; and
35 after full hearing, whether completed before or after the rate,
36 charge, fare, classification, regulation or practice goes into effect,
37 the commission may make such order in reference to such rate,
38 fare, charge, classification, regulation or practice as would be
39 proper in a proceeding initiated after the rate, fare, charge,
40 clasification, regulation or practice had become effective: *provided*,
41 that if any such hearing cannot be conducted within the period
42 of suspension, as above stated, the commission may in its dis-

43 cretion extend the time of suspension for a further period, not
44 exceeding six months. At any hearing involving a rate sought
45 to be increased or involving the change of any fare, charge,
46 classification, regulation or practice, after the passage of this act,
47 the burden of proof to show that the increased rate or proposed
48 increased rate, or the proposed change of fare, charge, classifica-
49 tion, regulation or practice is just and reasonable shall be upon the
50 public service corporation making application for such change.
51 When in any case pending before the commission all evidence shall
52 have been taken, and the hearing completed, the commission shall,
53 within three months, render a decision in such case.

Sec. 10. The commission shall have general supervision of
2 all persons, firms or corporations having authority under any
3 charter or franchise of any city, town or municipality, county
4 court, or tribunal in lieu thereof, or otherwise, to lay down and
5 maintain wires, pipes, conduits, ducts or other fixtures in, over or
6 under streets, highways or public places for the purpose of furnish-
7 ing and distributing gas, or for furnishing and transmitting elec-
8 tricity for light, heat or power, or maintaining underground con-
9 duits, or ducts for electrical conductors, or for telegraph or tele-
10 phone purposes, and for the purpose of furnishing water, either
11 for domestic or power purposes and of oil and gas pipe lines.

12 The commission may ascertain the quantity, healthfulness and
13 quality of the water or quality and quantity of gas or electricity
14 supplied by such persons, firms or corporations, and examine the
15 methods employed, and shall have power to order such improve-
16 ments as will best promote the public interests and preserve the
17 public health.

18 The commission shall have power, through its members, in-
19 spectors, or employees to enter in, upon and to inspect the prop-
20 erty, buildings, plants, fixtures, power houses and offices of any
21 such persons, firms, corporations or municipalities, and shall have
22 power to examine the books and affairs to be investigated by it,
23 and shall have the power, either as a commission or by any of its
24 members, to subpoena witnesses and take testimony and administer
25 oaths to any witness in any proceeding or examination instituted
26 before it or conducted by it in reference to any matter within its
27 jurisdiction. The commission shall, when and as necessary, ap-
28 point inspectors of gas, electric and water meters, whose duty
29 shall be when required to inspect, examine, prove and ascertain
30 the accuracy of any gas, electric, or water meters used or in-

31 tended to be used for measuring or ascertaining the quantity of
32 gas, electricity or water furnished to, by or for the use of **any**
33 person, firm or corporation, and when found to be correct, or
34 made so, the inspector shall stamp or mark each of such meters
35 with some suitable device, which device shall be recorded in the
36 office of the commission. No person, firm or corporation shall
37 furnish or put in use any gas, electric or water meter which shall
38 not have been inspected, proved and stamped or marked by an
39 inspector of the commission. *Provided*, that in cases of emergency,
40 gas, electric or water meters may be installed and used before
41 being inspected, but notice thereof shall be immediately given to
42 the public service commission by the public service corporation
43 installing the same, and such meters shall be inspected, proved
44 and stamped or marked, as soon thereafter as practicable. Every
45 gas, electric and water company or corporation shall provide and
46 keep in and upon its premises suitable and proper apparatus, to
47 be approved and stamped or marked by the commission, for test-
48 ing and proving the accuracy of gas, electric and water meters
49 furnished for use by it and by which apparatus every meter may
50 and shall be tested on the written request of the consumer to
51 whom the same shall be furnished, and in his presence if he so
52 desires.

53 If any person, firm or corporation to or by whom a meter has
54 been furnished shall request the commission in writing to inspect
55 such meter, the commission shall have the same inspected and
56 tested. If the same on being tested shall be found to be two per
57 cent. from being correct, or to the prejudice of the user, the in-
58 spector shall order the owner of such meter forthwith to remove
59 the same and to place instead thereof a correct meter, and the ex-
60 pense of such inspecting and testing shall be borne by the owner.
61 If the meter, on being so tested, shall be found to be correct, or
62 within two per cent of being correct, as above provided, the ex-
63 pense of such inspection and testing shall be borne by the user.
64 A uniform charge and rule shall be fixed by the commission for
65 this service.

66 *Provided*, that nothing in this act shall prevent the commis-
67 sion from changing and modifying the method of inspecting met-
68 ers and adopting such rules and regulations therefor as to the
69 commission may seem just and proper.

Sec. 14. The commission shall collect annually full and
2 complete information of the value of all property owned and con-

3 trolled by any person or public service corporation subject to the
4 provisions of this act, and tabulate in statistical form and furnish
5 the same to the board of public works on or before the first
6 day of June in each year, which information shall be used by
7 the said board of public works in fixing the value of the property
8 of such person or public service corporation for assessment for
9 the purpose of taxation as provided by law.

Sec. 15. There shall be paid by all public service corpora-
2 tions subject to the provisions of this act a special license fee in
3 addition to those now required by law. Such fee shall be fixed
4 by the auditor upon each of such public service corporations, ac-
5 cording to the value of its property, as ascertained by the last pre-
6 ceding assessment, and shall be apportioned among such public
7 service corporations upon the basis of such valuation, so as to pro-
8 duce a revenue of sixty thousand dollars per annum, or so much
9 thereof as may be necessary, which shall be paid on or before the
10 20th day of January in each year. Such sum of sixty thousand dol-
11 lars, or so much thereof as may be necessary, is hereby appropriated
12 and set aside for the purpose of paying the salaries, compensations,
13 cost and expenses of the commission, its members and employees.

Sec. 22. The commission shall have the power to enforce,
2 originate, establish, modify, change, adjust and promulgate tariffs,
3 rates, joint rates, tolls and schedules for all public service cor-
4 porations, including municipalities supplying gas, electricity or
5 water; and whenever the commission shall, after hearing, find any
6 existing rates, tolls, tariffs, joint rates or schedules unjust, unrea-
7 sonable, insufficient or unjustly discriminatory or otherwise in vio-
8 lation of any of the provisions of this act, the commission shall by
9 an order fix reasonable rates, joint rates, tariffs, tolls, charges or
10 schedules to be followed in the future in lieu of those found to be
11 unjust, unreasonable, insufficient or unjustly discriminatory or
12 otherwise in violation of any provisions of law, and the said com-
13 mission, in fixing the rate of any railroad company may fix a fair,
14 reasonable and just rate to be charged on any branch line thereof,
15 independent of the rate charged on the main line of said railroad.

Sec. 23. Whenever, under the provisions of this act, the com-
2 mission shall find any regulations, measurements, practices, acts
3 or service to be unjust, unreasonable, insufficient or unjustly dis-
4 criminatory, or otherwise in violation of any provisions of this
5 act, or shall find that any service is inadequate, or that any service
6 which can be reasonably demanded cannot be obtained, the com-

7 mission shall determine and declare, and by order fix, reasonable
8 measurements, regulations, acts, practices or service, to be fur-
9 nished, imposed, observed and followed in the state in lieu of
10 those found to be unjust, unreasonable, insufficient or unjustly dis-
11 criminatory, inadequate or otherwise in violation of this act; and
12 shall make such other order respecting the same as shall be just
13 and reasonable.

14 If any public service corporation, or other person, shall fail
15 or refuse to comply with the order of the commission under the
16 provisions of the last two sections, such public service corpora-
17 tion or other person in addition to the other penalties provided
18 for in this act, shall be subject to a fine not to exceed five thousand
19 dollars.

Sec. 24. Whenever, after hearing, upon notice, the public
2 service commission shall determine that public convenience or
3 necessity requires that conduits, subways, poles or other equipment
4 on, over or under any street or highway belonging to or used by
5 any public service corporation, should be used in part by another
6 public service corporation for the operation of its property in any
7 locality not reached by the lines or connections of one of said
8 corporations, or a municipality, the said public service commis-
9 sion may, by order, fix the just and reasonable terms and condi-
10 tions of such use, and prescribe the compensation to be paid
11 therefor.

12 And, whenever, after hearing, upon notice, the public service
13 commission shall determine that public convenience and necessity
14 require a physical connection for the establishment of a continu-
15 ous line of communication between any two or more public service
16 corporations regularly engaged in the conveyance of telephone or
17 telegraph messages, for the conveyance of such messages between
18 different localities, which are not reached by the lines or connection
19 of one of said companies, the said public service commission may,
20 by order, ascertain, determine and fix the just and reasonable terms
21 and conditions of such physical connection, including just and
22 reasonable rules and regulations and the just and reasonable
23 charge that shall be made to the public for the use of such
24 continuous line between such localities and the division of the
25 charge between such two or more public service corporations, and
26 the apportionment of the cost of making such physical connec-
27 tion between such public service corporations, and it shall be the
28 duty of such public service corporation thereafter to conform

29 to such order of said public service commission. But no order
30 shall be made by the public service commission under this section
31 to apply where the said use or physical connection will prevent
32 those owning, operating, managing or controlling any part of such
33 conduits, subways, poles or other equipment, or such proposed
34 continuous lines of communication, from performing their public
35 duties, nor result in serious injury to those owning, operating,
36 managing or controlling any part of such conduits, subways, poles
37 or other equipment, or of the proposed continuous line of com-
38 munication.

Sec. 25. Such use so ordered shall be permitted and such
2 physical connection or connections so ordered shall be made; and
3 the terms, conditions and compensation so prescribed for such use
4 and such physical connections shall be the lawful conditions and
5 compensation for such use and physical connection, and the lawful
6 terms and conditions upon which such use and physical connections
7 shall be had and made. Any such order may be from time to
8 time revised by the commission upon application of any interested
9 party or upon its own motion.

Sec. 26. The commission may establish a system of accounts
2 to be kept by public service corporations or classify said public
3 service corporations and establish a system of accounts for each
4 class, and prescribe the manner in which such accounts shall be
5 kept. It may also in its discretion prescribe the forms of ac-
6 counts, records and memorandum to be kept by such public serv-
7 ice corporations, including the accounts, records and memoran-
8 dum of the movement of traffic as well as the receipt and expendi-
9 ture of moneys, and any other forms, records and memorandum
10 which in the judgment of the commission may be necessary to
11 carry out any of the provisions of this act.

12 The system of accounts established by the commission and the
13 form of accounts, records and memorandum prescribed by it shall
14 not be inconsistent in the case of corporations subject to the pro-
15 visions of the act of congress entitled "An act to regulate com-
16 merce," approved February 4th, 1887, and the acts amendatory
17 thereof and supplemental thereto, with the systems and forms
18 from time to time established for such corporations by the Inter-
19 state Commerce Commission, but nothing herein contained shall
20 affect the power of the commission to prescribe forms of accounts,
21 records and memorandum covering information in addition to
22 that required by the Interstate Commerce Commission. The

23 commission may, after hearing had upon its own motion or upon
24-34 complaint, prescribe by order the accounts in which particular
35 outlays and receipts shall be entered, charged or credited.

36 Any person, officer, agent or employee of such public service
37 corporation who shall wilfully make any false entries in the ac-
38 counts, books of account, records or memorandum kept by any
39 public service corporation, or who shall wilfully destroy, mutilate,
40 alter or by any other means or device falsify the record of any
41 such account, book of accounts, record or memorandum, or who
42 shall wilfully neglect or fail to make full, true and correct entries
43 of or in such account, book of accounts, record or memorandum
44 of all the facts and transactions appertaining to such public serv-
45 ice corporation, or who shall falsely make any statement required
46 to be made to the commission, shall be deemed guilty of a mis-
47 demeanor and, upon conviction thereof, shall be fined not more
48 than one thousand dollars or be confined in jail not more than
49 one year or both, in the discretion of the court.

Sec. 27. Any person or public service corporation, firm or
2 association who shall violate any of the orders or findings of the
3 commission shall be guilty of contempt and the commission shall
4 have the same power to punish therefor as is now conferred on the
5 circuit court, with the right of appeal in all cases to the supreme
6 court.

Sec. 28. If any person, firm or corporation subject to the
2 provisions of this act shall fail or refuse to comply with any re-
3 quirement of the commission hereunder, for which a penalty has
4 not been hereinbefore prescribed, such person, firm or corporation
5 shall be subject to a fine of not less than one hundred dollars nor
6 more than five hundred dollars for each offense; and such person
7 or firm and the officers of such corporation may be indicted for
8 their failure to comply with any requirement of the commission
9 under the provisions of this act, and upon conviction thereof, may
10 be fined not to exceed five hundred dollars, and, in the discretion
11 of the court, confined in jail not to exceed thirty days.

12 Every day during which any person, firm or corporation, or
13 any officer, agent or employee thereof shall fail to observe and
14 comply with any order or direction of the commission, or to per-
15 form any duty enjoined by this act, shall constitute a separate and
16 distinct violation of such order or direction of this act, as the case
17 may be.

18 The intermediate and circuit courts of Kanawha county shall

19 have concurrent jurisdiction of all offenses and violations of any of
20 the provisions of this act.

21 All acts and parts of acts in conflict with this act are hereby
22 repealed.

Senate Bill No. 131

AN ACT to create a department of mines; to re-district the state for the purpose of mine inspection; to provide a more efficient system of inspection; to regulate mining conditions; to provide penalties for violations and to amend and re-enact chapter seventy-eight of the acts of one thousand nine hundred and seven, relating to mines.

Be it enacted by the Legislature of West Virginia:

That chapter seventy-eight, acts one thousand nine hundred and seven, be and is hereby amended and re-enacted so as to read as follows:

Section 1. There is hereby created an executive department to be known as the "department of mines" which shall have for its purpose the supervision of the execution and enforcement of all state laws pertaining to the inspection of mines, heretofore and hereafter enacted for the safety of persons employed within or at the mines within this state, and the protection of mine property and other property used and in connection therewith; and the said department of mines shall be in charge of an official to be known as the "chief of the department of mines", who shall have full charge of said department, and who shall superintend and direct the inspection of mines as herein provided and as provided by any other state law not in conflict with this act.

Sec. 2. The present chief of the department of mines, provided his appointment be confirmed by the senate, shall continue in office under the title of "chief of the department of mines" until December thirty-first, one thousand nine hundred and seven-teen, or until his successor shall be duly appointed and qualified, unless sooner removed as provided by law; and the governor of the state shall, with the consent of the senate, appoint a chief of the department of mines whose term of office shall begin January first, one thousand nine hundred and eighteen, and shall be for

10 four years, or until his successor shall be duly appointed and
11 qualified; and the governor, with the consent of the senate, shall
12 each four years thereafter appoint a chief of the department of
13 mines for the term of four years or until his successor be ap-
14 pointed and qualified.

Sec. 3. The chief of the department of mines shall, before
2 entering upon the discharge of his duties, take the oath of office pre-
3 scribed by the constitution and shall furnish bond in the sum of
4 two thousand dollars, with security to be approved by the governor,
5 conditioned upon the faithful discharge of his duty, a certificate of
6 which oath and which bond shall be filed in the office of the secre-
7 tary of state. Vacancies in the office of the chief of the depart-
8 ment of mines shall be filled by appointment for the unexpired
9 term.

Sec. 4. The chief of the department of mines shall be a male
2 citizen of West Virginia, and shall be a competent person, having
3 had at least eight years experience in the working, ventilation and
4 drainage of coal mines in this state, and having a practical and
5 scientific knowledge of all noxious and dangerous gases found in
6 such mines. He shall devote all of his time to the duties of his
7 office, and shall not be directly or indirectly interested in a finan-
8 cial way in any coal mine in this state. The salary of the chief of
9 the department of mines shall be three thousand dollars per annum,
10 and traveling expenses, which shall be paid monthly out of the state
11 treasury upon a requisition upon the state auditor, properly cer-
12 tified by the chief of the department of mines.

Sec. 5. The chief of the department of mines shall keep a
2 record of all inspections made by himself and the district mine in-
3 spectors, which shall be a permanent record properly indexed; rec-
4 ords of the department of mines shall, at all times, be open to the
5 inspection of any citizen of this state, and shall be laid before the
6 governor of the state upon his request at any time. The chief of
7 the department of mines shall have authority to visit, enter and
8 examine any mine and may call the assistance of any district mine
9 inspector, or inspectors, to any mine.

Sec. 6. The chief of the department of mines shall annually
2 make a full and complete written report of his proceedings to the
3 governor of the state for the year ending the thirtieth day of June;
4 such report shall include the reports of the district mine inspec-
5 tors, the number of visits and inspections made in the state by the
6 district inspectors, the quantity of coal and coke produced in
7 the state, the number of men employed, number of mines operated,

8 ovens in and out of blast, improvements made, prosecutions, etc.,
9 and such other information in relation to the subject of mines,
10 mining inspections and needed legislation as he may deem of public
11 interest and beneficial to the mining interests of the state; such
12 report shall be filed with the governor on or before the thirty-first
13 day of December next succeeding the year for which it was made,
14 and such report shall be printed upon the requisition of the gover-
15 nor; and, in order that the report shall be annually printed and
16 distributed among the operators, miners and citizens of the state,
17 the sum of fifteen hundred dollars annually, or so much thereof
18 as may be necessary, is hereby appropriated out of the state
19 treasury for this special purpose.

Mining Districts and Inspectors.

Sec. 7. As soon as practicable after this act becomes a law,
2 the chief of the department of mines, by and with the approval
3 of the governor, shall divide the state into fifteen mining dis-
4 tricts, in such manner as to equalize as far as practicable the work
5 of each inspector. The chief of the department of mines shall
6 appoint such an additional number of district mine inspectors,
7 which with those now in office, shall give one inspector for each
8 mining district within the state, whose term of office shall expire
9 the thirty-first day of December, one thousand nine hundred and
10 seventeen, unless sooner removed as provided by law; and he shall
11 direct and prescribe in which of the said districts each of the said
12 inspectors shall serve. After December thirty-first, one thousand
13 nine hundred and seventeen, appointments of all inspectors shall
14 be for a term of four years, except those appointments made to
15 fill out unexpired terms.

Sec. 8. Any chief of the department of mines who shall vio-
2 late any of the provisions of this act shall, upon conviction, be fined
3 not less than twenty-five dollars nor more than two hundred dol-
4 lars, and may, in the discretion of the court, be imprisoned in the
5 county jail not exceeding one year.

Qualifications and Duties of Inspectors.

Sec. 9. Every person appointed to the office of district mine
2 inspector shall be a citizen of West Virginia, having a practical
3 knowledge of mining and the proper ventilation and drainage of
4 mines, and a knowledge of the gases met with in coal mines, and
5 must be a miner of at least six years experience in coal mines,

6 or having otherwise been engaged as an employee for six years
7 within coal mines, and he shall not while in office be interested
8 as owner, operator, stockholder, superintendent, or engineer of
9 any coal mine, and he shall be of good moral character and
10 temperate habits. His term of office shall expire on December
11 thirty-first, one thousand nine hundred and seventeen, or when his
12 successor is appointed and qualified, unless sooner removed as
13 provided by law. An inspector of mines shall be removed from
14 office by the chief of the department of mines for incompetency,
15 neglect of duty, drunkenness, malfeasance, or for other good
16 cause. The salary of each district mine inspector shall be two
17 thousand one hundred dollars per annum, and actual traveling
18 expenses; such salary and expenses shall be paid monthly
19 out of the state treasury upon approval of the chief of the depart-
20 ment of mines; *provided*, that before payment of such expense
21 shall be made to the inspector he shall file an account of such
22 expense, verified by his affidavit, showing that they accrued in
23 the discharge of his official duties.

Oath of Office.

Sec. 10. The district mine inspector shall, before entering
2 upon the discharge of his duties, take the oath of office prescribed
3 by the constitution and shall furnish bond in the sum of two
4 thousand dollars, with security to be approved by the governor,
5 conditioned upon the faithful discharge of his duty, a certificate
6 of which oath and which bond shall be filed in the office of the
7 secretary of state. Vacancies in the office of district mine in-
8 spector shall be filled by appointment for the unexpired term.

Duties.

Sec. 11. Each of the district mine inspectors shall report,
2 in writing, weekly to the chief of the department of mines, the
3 number and condition of all mines inspected by him during each
4 week and shall deliver to the operator, or operators, of each mine
5 inspected a certificate of inspection, and shall post a duplicate
6 certificate at a prominent place of the operating company where
7 it may be conveniently read by any of the mine employees; said
8 duplicate certificate shall remain posted until a subsequent cer-
9 tificate is issued by the district mine inspector. He shall visit
10 each mine in his district at least once in every three months, or
11 oftener if called upon in writing by ten men engaged in any one

12 mine, or the owner, operator or superintendent of such mine, and
13 make a personal examination of each working place and also
14 abandoned parts of the mine where gas is liberated, and out-
15 side of the mine where any danger may exist to the workmen,
16 in their respective districts, and shall particularly examine in-
17 to the condition of the mines as to ventilation, drainage and
18 general safety and shall make a report of such examination, and
19 he shall see that all the provisions of the mining statutes are
20 strictly carried out, and it shall be unlawful for any district mine
21 inspector to appoint any deputy or other person to do and per-
22 form any work required of such inspector.

Written Report.

Sec. 12. Each district mine inspector shall for each year
2 ending the thirtieth day of June, make a written report to the
3 chief of the department of mines of his proceedings, stating there-
4 in the number of mines in his district, the improvements made
5 in and at the mines, the extent to which the mining statutes are
6 obeyed and violated, and such other information in relation to
7 mines and mining as he may deem of public interest, or as may be
8 required of him by the chief of the department of mines; he shall
9 also suggest or recommend such legislation on the subject of min-
10 ing as he may think necessary; such report shall be filed with the
11 chief of the department of mines on or before the thirtieth day
12 of September next succeeding the year for which it was made.

Working Places in Advance of Air Current.

Sec. 13. Should the mine inspector discover any room,
2 entry, airway, or other working places, being driven in advance of
3 the air currents contrary to the requirements of the mining
4 statutes, he shall order the workmen in such places to cease work
5 at once until the law is complied with.

Penalty.

Sec. 14. Any mine inspector failing to comply with the re-
2 quirements of this act shall be guilty of a misdemeanor, and up-
3 on conviction thereof, shall be fined not less than one hundred
4 dollars nor more than five hundred dollars and be dismissed from
5 office.

Mine Maps.

Sec. 15. The operator, or agent, of every coal mine shall make,

2 or cause to be made, an accurate map or plan of such mine, on a
 3 scale to be stated thereon, of one hundred, two hundred or three
 4 hundred feet to the inch; such map or plan shall show the open-
 5 ings or excavations, the shafts, slopes, entries, airways, with darts
 6 or arrows showing direction of air currents, headings, rooms,
 7 pillars, etc., and such portions of such mine or mines as may
 8 have been abandoned, the general inclination of the coal strata,
 9 and so much of the property lines and the outcrop of the coal
 10 seam of the tract of land on which said mine is located, as may
 11 be within one thousand feet of any part of the workings of such
 12 mine; a true copy of such map or plan shall be delivered by such
 13 operator to the inspector of his district, to be preserved among
 14 the records of his office and turned over to his successor in office;
 15 but it is provided that in no case shall any copy of the same be
 16 made without the consent of the operator or his agent; and the
 17 original map, or a true copy thereof, shall be kept by such opera-
 18 tor at the office of the mine, and open at all reasonable times
 19 for the examination and use of the inspector, and such operator
 20 shall, twice within every twelve months, while the mine is in
 21 operation, cause such mine to be surveyed and the map thereof
 22 extended so as to accurately show the progress of the workings,
 23 the property lines, and outcrops, as above provided.

24 - The map, or maps, required by this section shall have the
 25 certificate of the engineer making same, acknowledged thereon
 26 before a notary public, or justice of the peace, in the following
 27 form:

27-a I, the undersigned, hereby certify that this map is correct
 27-b and shows all the information, to the best of my knowledge and
 28 belief, required by the mining laws of this state, and covers the
 29 period ending

30
 31 Engineer.

32 Acknowledged before me a, this ..day of
 33

34 Any engineer who shall knowingly make any such map which
 35 does not correctly show the data required in this section or know-
 36 ingly makes any false statement in connection therewith, shall be
 37 deemed guilty of a misdemeanor and upon conviction shall be
 38 fined not less than fifty dollars nor more than two hundred dollars.

Sec. 16. If the operator, or agent, of any coal mine shall
 2 neglect or fail to furnish to the mine inspector of his district, any

3 copy of map, or extension thereof, as provided in the preceding sec-
4 tion of this act, the mine inspector is hereby authorized to cause a
5 correct survey and map, or plan, of said coal mine, or the extension
6 thereof, to be made at the expense of the operator of such mine,
7 the cost of which shall be recoverable from said operator as other
8 debts are recoverable by law; and if at any time the chief of the
9 department of mines has reason to believe that such map, or plan,
10 or extension thereof, furnished in pursuance of the preceding sec-
11 tion be materially incorrect, such as will not serve the purpose for
12 which it was intended, he may have the survey and map, or plan, or
13 the extension thereof, made, or corrected, and the expense of
14 making such survey and map, or plan, or extension thereof, under
15 the direction of said chief of the department of mines, shall be
16 paid by the operator, and the same may be collected as other debts
17 are recoverable by law; and if found correct, the expense thereof
18 to be paid by the state.

Sec. 17. The operator, agent or mine foreman of every coal
2 mine, whether worked by shaft, slope or drift, shall provide and
3 hereafter maintain for every such mine ample means of ven-
4 tilation, affording no less than one hundred cubic feet of air per
5 minute for each and every person employed in such mine, and
6 as much more as the district mine inspector may require, which
7 shall be circulated around the main headings and cross-headings
8 and working places, to an extent that will dilute, render harmless
9 and carry off, the noxious and dangerous gases liberated therein;
10 and as the working places shall advance, break-throughs for air
11 shall be made, not to exceed eighty feet apart, in pillars, or brat-
12 tice, shall be used so as to properly ventilate the face, and all the
13 break-throughs between the intake and return airways not re-
14 quired for the passage of air shall be closed with stoppings sub-
15 stantially built with suitable material, which shall be approved
16 by the district mine inspector, so as to keep the working places
17 well ventilated. Not more than sixty persons shall be permitted
18 to work in the same air current; *provided*, that a larger number,
19 not exceeding eighty persons, may be allowed by the district mine
20 inspector where, in his judgment, it is impracticable to comply
21 with the foregoing requirement.

Sec. 18. No product of petroleum, or alcohol, or any com-
2 pound that in the opinion of the inspector will contaminate the
3 air to such an extent as to be injurious to the health of the miner
4 shall be used as motive power in any mine.

Sec. 19. No operator, agent or mine foreman, shall permit
2 any persons to work where they are unable to maintain at least
3 one hundred cubic feet of air per minute; but this shall not be
4 construed to prohibit the operator from employing men to make
5 the place of employment safe and to comply with this require-
6 ment; *provided further*, that while the repair work necessary to
7 get the mine in condition to comply with the law is in progress,
8 no person or persons shall be permitted to enter that part of the
9 mine affected except those actually employed in doing the neces-
10 sary repair work.

Sec. 20. In all mines accumulations of fine dry coal dust
2 shall, as far as practicable, be removed from the mine and all dry
3 and dusty sections kept thoroughly watered down at all times.

4 For violations of the foregoing provisions of sections seven-
5 teen, eighteen, nineteen, and twenty, the operator, agent or mine
6 foreman shall, upon conviction, be fined not less than fifty nor
7 more than five hundred dollars, or be imprisoned in the county
8 jail not less than ten nor more than ninety days, in the discre-
9 tion of the court.

Sec. 21. The operator, or agent, of every coal mine worked
2 by shaft shall forthwith provide, and hereafter maintain, a metal
3 tube from the top to the bottom of such shaft suitably adapted to
4 the free passage of sound through which conversation may be held
5 between persons at the top and at the bottom of the shaft; also
6 the ordinary means of signaling, and an approved safety catch,
7 and a sufficient cover overhead on every cage used for lowering or
8 hoisting persons, and at the top of the shaft an approved safety
9 gate, and an adequate brake on the drum of every machine used
10 to lower or hoist persons in such shaft; and the said operator or
11 agent shall have the machinery used for lowering or hoisting per-
12 sons into or out of the mine kept in safe condition, and inspected
13 once in each twenty-four hours by some competent person; and
14 there shall be cut out or around the side of hoisting shaft or
15 driven through the solid strata at the bottom thereof a traveling
16 way of not less than five feet high and three feet wide to enable a
17 person to pass the shaft in going from one side of it to the other
18 without passing over or under the cage or other hoisting appara-
19 tus.

Sec. 22. The operator or agent of every shaft mine shall in-
2 stall a uniform system of checking the employees in and out of
3 the mine, whereby each employee upon entering the mine shall be
4 given a check by which he shall be identified, and which check

5 shall be placed in its proper place on the check board by the employee when leaving the mine.

7 Any operator, agent or employee who shall fail or refuse to
8 comply with any of the requirements of sections twenty-one and
9 twenty-two shall be guilty of a misdemeanor, and upon conviction
10 shall be fined not less than fifty nor more than five hundred dol-
11 lars; or be imprisoned in the county jail not less than thirty days
12 nor more than one year, in the discretion of the court.

Sec. 23. No operator or agent of any coal mine, worked by
2 shaft, slope or incline shall place in charge of any engine or drum
3 used for lowering or hoisting any persons employed in such mine
4 any but competent and sober engineers or drum runners; and no
5 engineer in charge of such machinery shall allow any person ex-
6 cept such as may be deputed for this purpose, by the operator or
7 agent, to interfere with any part of the machinery; and no per-
8 son shall interfere with or intimidate the engineer or drum run-
9 ner in the discharge of his duties; and in no case shall more than
10 ten persons ride on any cage or car at one time, and no person
11 shall ride on a loaded cage or car in any shaft or slope or on any
12 incline.

Sec. 24. At every mine where ten men are employed un-
2 derground, it shall be the duty of the operator thereof to keep
3 always on hand at the mine a properly constructed stretcher, a
4 woolen and water proof blanket, and all necessary requisites which
5 may be advised by the medical practitioner employed by the com-
6 pany, and if as many as one hundred and fifty men be employed,
7 two stretchers with the necessary equipments as above advised.

8 For violation of the foregoing provisions of sections twenty-
9 three and twenty-four, the operator or agent or miner, shall, upon
10 conviction be fined not less than fifty nor more than three hun-
11 dred dollars, or be imprisoned in the county jail not less than
12 ten nor more than ninety days, in the discretion of the court.

Sec. 25. The operator or agent of every coal mine shall fur-
2 nish the inspector proper facilities for entering such mine and
3 making examinations or obtaining information; and if any in-
4 spector shall discover that any mine does not in respect to appli-
5 ances for the safety of the persons employed therein, conform to the
6 provisions of this act, or that by reason of any defect or practice in
7 or at such mine the lives or health of persons employed therein,
8 are endangered, he shall immediately, in writing, notify such oper-
9 ator or agent thereof, stating in such notice the particulars in

10 which he considers such mine to be defective or dangerous and if
11 he deems it necessary for the protection of the lives or health of
12 the persons employed in such mine, he shall, after giving notice
13 of one day to the said operator or agent, in writing, notify imme-
14 diately the chief of the department of mines, who shall immedi-
15 ately examine the mine reported to be unsafe.

16 If upon such examination the mine reported to be unsafe is
17 in fact found to be in an unsafe condition the chief of the depart-
18 ment of mines shall forthwith order the mine to be closed until
19 it is placed in a safe and proper condition for mining operations;
20 the owner or operator of any mine so closed may apply to the cir-
21 cuit court wherein such mine is located, or the judge thereof, in
22 vacation, by petition for an order directing said mine to be re-
23 opened, and such court, or the judge thereof in vacation, shall im-
24 mediately hear and determine the matters arising upon such pe-
25 tition, and if upon full hearing thereof the court, or the judge
26 thereof in vacation, shall find that said mine is in a reasonably
27 safe condition, the prayer of said petition shall be granted; but
28 notice of said hearing shall be given to the district mine inspector
29 or the chief of the department of mines three days at the least
30 before said hearing; and in all such hearings the attorney general
31 shall appear for the state and defend the same.

Ventilation.

Sec. 26. In all mines liberating explosive gas, and where
2 there is any reason to believe that gas will be encountered in the
3 future workings and developments of the mine, the minimum ven-
4 tilation shall be one hundred and fifty cubic feet per minute, for
5 each and every person employed therein, and as much more as
6 one or more of the district mine inspectors may deem requisite;
7 and all stoppings on the main entries shall be substantially built
8 of masonry, concrete or other incombustible material, which shall
9 be approved by the district mine inspector, so as to keep the work-
10 ing places well ventilated; doors on main haulways shall be avoid-
11 ed in gaseous mines where practicable, and overcasts built of ma-
12 sonry, or other incombustible material, and of ample strength
13 shall be adopted, and where doors are used they must be built in
14 a substantial manner, and hung so as to close automatically when
15 unobstructed.

Sec. 27. All unused workings and abandoned parts of the
2 mines must be protected by such safeguards as will prevent so far

3 as practicable the accumulation or overflow of gas therein, and all
4 avenues leading thereto shall be so arranged and conducted so
5 as to give cautionary notice to all persons of the danger in entering
6 therein; and in order to secure the safety of the workmen in gen-
7 eral against the danger in said unused or abandoned sections of
8 the mine, notice shall be posted warning all persons not to enter
9 such parts of said mine, except persons authorized to make exami-
10 nation of the above section, and it shall be unlawful for any per-
11 son, except as aforesaid, to enter such parts of said mine.

12 Any operator, agent or mine foreman violating the forego-
13 ing provisions of sections twenty-six and twenty-seven shall, upon
14 conviction, be fined not less than fifty nor more than two hundred
15 dollars, or be imprisoned in the county jail not less than thirty
16 nor more than ninety days, in the discretion of the court.

Sec. 28. Mines, which in the opinion of the department of
2 mines, liberate explosive gas in dangerous quantities from the coal
3 or adjacent strata shall be worked exclusively by the use of locked
4 safety lamps, or approved electric lamps, and no open lamp or
5 torch shall be used except as may be permitted in writing by the
6 district mine inspector; the safety lamps used for examining any
7 mine or which may be used for working therein, shall be furnished
8 by, and be the property of, the operator of the mine, and shall be
9 in charge of some person to be designated by the "fire boss",
10 and at least two safety lamps shall be kept at every coal mine
11 whether such mine liberates fire damp or not.

12 Any operator, agent or other person who shall fail or refuse
13 to comply with the requirements of this section shall be guilty of
14 a misdemeanor and upon conviction shall be fined not less than
15 fifty nor more than five hundred dollars, or be imprisoned in the
16 county jail not less than thirty days nor more than one year, in
17 the discretion of the court.

Sec. 29. The ventilation of all mines shall be produced by
2 means of fans, mechanically operated, unless otherwise ordered by
3 the chief of the department of mines. The fan (or fans) shall be
4 kept in operation night and day, unless written permission be
5 granted by the chief of the department of mines, or the district
6 inspector in whose district the mine is located. In case of acci-
7 dent to a ventilating fan or its machinery, whereby the ventila-
8 tion of the mine would be seriously interrupted, the mine fore-
9 man shall order the men to withdraw immediately from the mine,
10 and he shall not allow them to return to their work until the ven-

11 tilation has been restored, and the mine has been thoroughly ex-
12 amined by him, or by an assistant mine foreman or fire boss, and
13 reported safe.

14 Any mine foreman who shall fail or refuse to comply with
15 the requirements of this section, shall be guilty of a misdemeanor
16 and upon conviction shall be fined not less than fifty nor more
17 than two hundred dollars, or be imprisoned in the county jail not
18 less than thirty days nor more than one year, in the discretion of
19 the court.

Sec. 30. Any operator, or agent of a coal mine before making
2 any new or additional openings, shall submit to the chief of the
3 department of mines, for his information and approval, a plan
4 showing the proposed system of ventilation and equipment of the
5 openings with their location and relative positions to adjacent de-
6 velopments; and no such new or additional openings shall be made
7 until approved by the chief of the department of mines.

8 Any operator, agent or other person who shall fail, or refuse
9 to comply with the requirements of this section, shall be guilty
10 of a misdemeanor, and upon conviction, shall be fined not less
11 than fifty nor more than five hundred dollars, or be imprisoned in
12 the county jail not less than sixty days nor more than one year,
13 in the discretion of the court.

Sec. 31. It shall be unlawful for the operator, agent or mine
2 foreman of any coal mine, to employ any person to work in said
3 mine, or permit any persons to be in said mine for the purpose of
4 working therein, unless they are in communication with at least
5 two openings, or outlets, to each seam, separated by natural strata,
6 such openings to be not less than three hundred feet apart, if the
7 mine be worked by shaft, and not less than fifty feet apart at the
8 outlets, if worked by slope or drift; but this requirement of a dis-
9 tance of three hundred feet between openings or outlets to shaft
10 mines, shall not apply where such openings, or outlets, have been
11 made prior to the passage of this act. To each of said outlets there
12 shall be provided from the interior of the mine, a safe and avail-
13 able roadway properly drained, which shall at all times, while the
14 mine is in operation, be kept free from all obstructions that might
15 prevent travel thereon in case of an emergency, and if either of
16 said outlets be by shaft, it shall be fitted with safe and available
17 appliances, such as stairs or hoisting machinery, which shall at all
18 times, when the mine is in operation, be kept in order and ready
19 for immediate use, whereby persons employed in the mine may

20 readily escape in case of an accident, and in addition to the regu-
21 lar hoisting machinery every shaft used for lowering or hoisting
22 men shall be provided with a complete emergency windlass, or
23 other hoisting device of ample strength for hoisting men from the
24 mine, the same to be approved by the department of mines.

25 This section shall not apply to any mine while work is being
26 prosecuted with reasonable diligence in making communication
27 between said outlets, necessary repairs and removing obstructions,
28 so long as not more than twenty persons are employed at any one
29 time in said mine; neither shall it apply to any mine, or part of
30 a mine, in which a second outlet has been rendered unavailable by
31 reason of the final robbing of pillars, preparatory to abandonment,
32 so long as not more than twenty persons are employed therein at
33 any one time; but before said limited number of men are so per-
34 mitted to work, approval of the necessity therefor shall first be ob-
35 tained from the department of mines, by the operator.

36 For violation of this section the operator, agent, or mine fore-
37 man, shall, upon conviction, be fined not less than fifty nor more
38 than five hundred dollars, or be imprisoned in the county jail not
39 less than ten nor more than ninety days, in the discretion of the
40 court.

Child Labor; Employment of Females Prohibited.

Sec. 32. No boy under fourteen years of age, nor female per-
2 sons of any age, shall be permitted to work in any coal mine.
3 Whenever any boy is so employed the parent or guardian of such
4 boy shall make affidavit that his age is fourteen years or more,
5 which affidavit shall be immediately filed with the employer, in
6 duplicate, one of which said affidavits, in duplicate, shall be im-
7 mediately filed with the district inspector of the district in which
8 the mine is located, which affidavit shall as to the employer, be
9 conclusive as to the age of such boy. Any operator, agent or mine
10 foreman who shall knowingly violate the provisions of this sec-
11 tion, or any person knowingly making a false statement as to the
12 age of any boy under fourteen years of age, applying for work
13 in any coal mine, shall, upon conviction, be fined not less than ten
14 nor more than one hundred dollars, or be imprisoned in the coun-
15 ty jail not less than ten nor more than ninety days, in the discre-
16 tion of the court.

Employment of Boys While School is in Session.

Sec. 33. It shall be unlawful for any person, operator, agent

2 or mine foreman, to employ or permit any boy between the ages
3 of fourteen and sixteen years, to work in or about a coal mine at
4 any time in which a free school is in session in the school district
5 where said boy resides. Before any person, operator, agent or
6 mine foreman, employs or permits any boy to work in or about
7 a coal mine at any time in which a free school is in session in the
8 school district where said boy resides, he shall require from the
9 parent or guardian of such boy, affidavits in duplicate, that such
10 boy has, at the time of his employment or permission to work,
11 reached the age of sixteen years. A duplicate of said affidavit,
12 or affidavits, shall be immediately forwarded to the district in-
13 spector of the district in which the mine is located. No boy under
13-a the age of sixteen shall be employed or permitted to work in or
14 about any coal mine, at any time in a position which, in the opin-
15 ion of the district inspector, is hazardous. Any person violating
16 the provisions of this section, or making any false statement in
17 the affidavit required herein, shall be guilty of a misdemeanor
18 and upon conviction, fined not less than twenty-five dollars nor
19 more than one hundred dollars, or be imprisoned in the county
20 jail not more than thirty days, in the discretion of the court.

Sec. 34. The operator or agent of every coal mine shall an-
2 nually, during the month of July, mail or deliver to the chief of
3 the department of mines, a report for the preceding twelve months,
4 ending with the thirtieth day of June; such report shall state the
5 names of the operators and officers of the mine, the quantity of
6 coal mined and such other information, not of a private nature,
7 as may from time to time be required by the chief of the depart-
8 ment of mines; blank forms of such reports shall be furnished by
9 the chief of the department of mines. At any time any person,
10 company or corporation operating a coal mine shall transfer the
11 ownership of any mine to another person, company or corporation,
12 the person, company or corporation, transferring such ownership
13 shall, within thirty days make a report to the chief of the depart-
14 ment of mines of such change, and a statement of the tons of coal
15 produced since the first of July last, previous to the date of such
16 sale or transfer of such mine or mines; any operator or agent
17 failing to furnish the reports as required in this section shall be
18 guilty of a misdemeanor, and upon conviction, shall be fined not
19 less than fifty nor more than five hundred dollars, or be impris-
20 oned in the county jail not less than thirty nor more than ninety
21 days, in the discretion of the court.

Sec. 35. Any operator, agent, superintendent, or mine fore-
2 man having in charge any mine, who shall knowingly permit any
3 person to work in any part of a mine in violation of written in-
4 structions issued by the mine inspector, made in compliance with
5 the requirements of this act, shall, upon conviction, be fined not
6 less than fifty nor more than one hundred dollars for each person
7 permitted to work in violation of such instructions, and any em-
8 ployees who shall work in violation of such instructions shall, upon
9 conviction, be fined not less than ten nor more than fifty dollars.

Sec. 36. In any mine in which solid shooting is done the
2 district mine inspector is authorized to prescribe the condition
3 under which such solid shooting may be done; any operator, or
4 mine foreman, who causes or permits any solid shooting to be
5 done therein without having first obtained a written permit from
6 the district inspector, or any miner therein who shoots coal from
7 the solid without first having obtained permission so to do from
8 the operator or mine foreman, shall be guilty of a misdemeanor
9 and upon conviction shall be fined not less than ten nor more
10 than fifty dollars, or be imprisoned in the county jail not less
11 than thirty nor more than ninety days, in the discretion of the
12 court.

Sec. 37. No steam locomotive shall be used in mines where
2 men are actually employed in the extraction of coal, except by the
3 consent of the district mine inspector, but this shall not be con-
4 strued to prohibit any mine owner from operating a steam loco-
5 motive through any tunnel, haulway or part of a mine that is
6 not in actual operation and furnishing coal; any operator or agent
7 who violates this section shall be guilty of a misdemeanor and
8 upon conviction shall be fined not less than fifty nor more than
9 five hundred dollars, or be imprisoned in the county jail not less
10 than thirty nor more than ninety days, in the discretion of the
11 court.

Sec. 38. There shall be adopted by the operator of every
2 mine in this state special rules for the government and operation
3 of his mine or mines, covering all the work pertaining thereto in
4 and outside of the same, which, however, shall not be in conflict
5 with the provisions of the mining laws of this state. Such rules
6 when established shall be printed on cardboard, in the languages
7 spoken by ten or more employees, and shall be posted up in the
8 drum house, tippie or some other conspicuous place about the

9 mines where the same may be seen and observed by all the em-
10 ployees at such mines, and when said rules are so posted the same
11 shall operate as a notice to all employees at such mine of their
12 acceptance of the contents thereof; and it shall be the duty of
13 each mine operator to furnish a printed copy of said rules to
14 each of his employees when requested by either or any of them.
15 Any operator or agent who violates the provisions of this section
16 shall be guilty of a misdemeanor, and, upon conviction, shall be
17 fined not less than fifty nor more than five hundred dollars, or
18 be imprisoned in the county jail not less than thirty nor more than
19 ninety days, in the discretion of the court.

Sec. 39. If any operator of a mine shall in any manner
2 refuse to furnish all supplies necessary for the mine foreman to
3 comply with the requirements of this act, after being requested
4 so to do in writing by the mine foreman, he shall be guilty of a
5 misdemeanor, and upon conviction thereof, shall be fined not
6 less than fifty nor more than two hundred dollars, or imprisoned
7 in the county jail not less than thirty nor more than ninety days,
8 in the discretion of the court.

Sec. 40. No miner, workman or other persons, shall know-
2 ingly injure any shaft, lamp, instrument, air course, or brattice,
3 or obstruct or throw open airways or carry matches or open lights
4 in the places worked by safety lamps or disturb any part of the
5 machinery or appliances, open a door used for directing ventila-
6 tion and not close it again, or enter any part of a mine against
7 caution, or disobey any order given in carrying out any of the
8 provisions of this act, or do any other act whereby the life or
9 health of any person employed in the mine or the security of
10 the mine is endangered. Any person who shall violate the pro-
11 visions of this section shall, upon conviction, be fined not less than
12 ten nor more than five hundred dollars, or be imprisoned in the
13 county jail not less than ten nor more than ninety days, in the
14 discretion of the court.

Right of Search.

Sec. 41. The operator, mine foreman, assistant mine fore-
2 man or district inspector may search or cause to be searched any
3 miner or other employee, including mine officials, or any other
4 person, if he has reason to believe that intoxicating drinks, matches
5 or pipes are being carried into the mine where electric or safety
6 lamps are exclusively used.

Sec. 42. Nor shall any person or persons or combination of
2 persons, by force, threats, menaces, or intimidation of any kind,
3 prevent or attempt to prevent from working in or about any mine,
4 any person or persons who have the lawful right to work in or
5 about the same, and who desire so to work; but this provision
6 shall not be so construed as to prevent any two or more persons
7 from associating together under the name of knights of labor, or
8 any other name they may desire, for any lawful purpose, or for
9 using moral suasion or lawful argument to induce any one not
10 to work in and about any mine. Any person or persons who shall
11 violate the provisions of this section shall, upon conviction, be
12 fined not less than fifty nor more than five hundred dollars, or be
13 imprisoned in the county jail not less than ten days nor more
14 than ninety days, in the discretion of the court.

Sec. 43. Whenever by reason of any explosion or other ac-
2 cident in any coal mine, or the machinery connected therewith,
3 loss of life or serious personal injury shall occur, it shall be the
4 duty of the superintendent of the colliery, and in his absence, the
5 mine foreman in charge of the mine, to give notice forthwith,
6 by mail or otherwise, to the chief of the department and the in-
7 spector of the district, stating the particulars of such accident;
8 and if any one is killed thereby, to the coroner of the county also,
9 or in his absence or inability to act, to any justice of the peace;
10 and the said inspector shall, if he deems it necessary from the
11 facts reported, immediately go to the scene of such accident and
12 make such suggestions and render such assistance as he may deem
13 necessary for the future safety of the men and investigate the
14 cause of such explosion or accident, and make a record thereof
15 which he shall preserve with the other records of his office; and
16 to enable him to make such investigation, he shall have the power
17 to compel the attendance of witnesses, and to administer oaths or
18 affirmations: and the costs of such investigation shall be paid by
19 the county in which such accident occurred, in the same manner
20 as the costs of the coroner's inquest are now paid. If the coroner
21 or justice shall determine to hold an inquest upon the body of any
22 person killed, as aforesaid, he shall impanel a jury, no one of
23 whom shall be directly or indirectly interested.

24 The chief of the department of mines, or the district in-
25 spector, if present at such inquest, shall have the right to appear
26 and testify and to offer any testimony that may be relevant and

27 to question and cross-question any witness; and the coroner or
28 justice shall deliver to the inspector a copy of the testimony and
29 verdict of the jury.

30 Any operator, agent, superintendent, or mine foreman, who
31 shall fail to perform the duty provided in this section, shall upon
32 conviction, be guilty of a misdemeanor, and shall be fined not less
33 than ten nor more than five hundred dollars, or be imprisoned
34 in the county jail not less than ten nor more than ninety days,
35 in the discretion of the court.

Sec. 44. No operator, agent or mine foreman shall provide a
2 horse or mule stable inside of any mine unless space for stable is
3 excavated in solid strata of rock, slate or coal. If excavated in
4 the coal seam, the wall shall be built of brick, stone or concrete,
5 not less than four inches in thickness, or steel plates, and the
6 said wall shall be built from the bottom slate to the roof. No
7 wood or other combustible material shall be used in the con-
8 struction of the inside of said stable. The air current used for
9 the ventilation of the said stable shall not be intermixed with
10 the air current used for ventilating any other portion of the mine,
11 but shall be conveyed directly to the return air-current. No
12 open lights shall be permitted in any stable in any mine. No
13 hay or straw shall be taken into any mine, unless pressed or made
14 up in compact bales, which shall be kept in a storehouse, built
15 apart from the stable, constructed in the same manner as the
16 stable. Under no circumstances shall hay be stored in the stable.
17 All refuse and waste shall be removed from the stable and shall
18 not be allowed to accumulate in the mine.

19 Any operator, agent or person who shall fail or refuse to com-
20 ply with the requirements of this section, after six months from
21 the date upon which this act becomes effective, shall be guilty
22 of a misdemeanor, and, upon conviction, shall be fined not less
23 than fifty nor more than three hundred dollars, or be imprisoned
24 in the county jail not less than thirty days nor more than one
25 year, in the discretion of the court.

Sec. 45. Within six months after this act becomes a law all
2 magazines used for storing powder or other explosives in quanti-
3 ties greater than an estimated daily supply, shall be constructed
4 of non-combustible material and located not less than three hun-
5 dred feet from any mine opening or buildings used or occupied
6 by any person, or persons; buildings in which the ventilating fan
7 is enclosed shall be constructed of non-combustible material; or

8 otherwise protected from damage by fire, by such safeguards as
9 may be approved by the department of mines.

10 A violation of this section shall be a misdemeanor and sub-
11 ject the offender to a fine of not less than one hundred dollars,
12 and each month's failure to comply with this section shall be a
13 separate offense.

Sec. 46. After the passage of this act, power houses and all
2 other buildings erected at or near any opening of a mine, shall
3 be constructed of non-combustible material, to be approved by the
4 department of mines.

5 Any operator, or agent who fails to comply with this section
6 shall, upon conviction, be fined not less than three hundred nor
7 more than five hundred dollars.

Electricity in Mines.

Sec. 47. The operator, agent or mine foreman of any coal
2 mine in which electricity is used as means of power, shall, within
3 six months after the passage of this act, comply with the provisions
4 of the following sections, forty-eight, forty-nine, fifty, fifty-one and
5 fifty-two.

Sec. 48. On all haulage roads, landings and partings, where
2 men are required to regularly work or pass under trolley or other
3 bare power wires which are placed less than six and one-half feet
4 above top of rail, a suitable protection shall be provided. This pro-
5 tection shall consist of channeling the roof, placing boards along the
6 wire, which shall extend below it, or the use of other approved
7 devices that afford protection.

Sec. 49. All machine feed wires shall be placed on glass or
2 porcelain insulators, which shall be so placed as to prevent the
3 wires coming in contact with the coal. When machine or feed
4 wires are carried in same entry as trolley wire, they shall be placed
5 on the same side as the trolley wire, between trolley wire and rib
6 and protected so far as practicable from contact therewith, and
7 positive feed wires crossing places where persons or animals are
8 required to travel, shall be safely guarded or protected from such
9 persons or animals coming in contact therewith, as provided in
10 the preceding section.

Sec. 50. All trolley and positive feed wires shall be placed
2 on opposite sides of track from refuge holes or necks of rooms,
3 when so ordered by the department of mines, and wires may be
4 placed across the necks of rooms when protected as provided for
5 in section forty-eight. Switches or circuit-breakers shall be pro-

6 vided to control the current at the mine, and all important sections
7 in the mine.

Sec. 51. All power wires and cables in hoisting shafts or
2 manway compartments shall be properly insulated, substantially
3 fixed and well protected.

Sec. 52. Electric haulage by locomotives operated from a
2 trolley wire is not permissible in any mines worked by safety or
3 approved electric lamps, except upon the intake airway, fresh from
4 the outside.

5 For the violation of the foregoing provisions of section forty-
6 seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two the
7 operator, agent or mine foreman, shall, upon conviction, be fined
8 not less than fifty nor more than three hundred dollars, or be
9 imprisoned in the county jail not less than thirty nor more than
10 ninety days, in the discretion of the court.

Electric Coal-Cutting Machines.

Sec. 53. Within six months after this act becomes a law all
2 electric coal-cutting machines used in gaseous portions of the
3 mines shall be flame proof, and be approved by the department of
4 mines. No man shall be placed in charge of a coal-cutting ma-
5 chine in any gaseous portion of a mine who is not a competent
6 person, capable of determining the safety of the roof and the sides
7 of the working places and detecting the presence of explosive gas.

Sec. 54. In any gaseous portion of a mine, a coal-cutting
2 machine shall not be brought within the last break-through next the
3 working face, until the machine man shall have made an inspec-
4 tion for gas in the place where the machine is to work, unless
5 such examination is then made by some other competent person
6 authorized or appointed for that purpose by the mine foreman.
7 If any explosive gas is found in the place, the machine shall not
8 be taken in until the gas is removed.

Sec. 55. In working places where gas is likely to be encoun-
2 tered, a safety lamp, or other suitable apparatus for the detection
3 of fire-damp, shall be provided for use with each machine when
4 working, and should any indication of fire-damp appear on the
5 flame of the safety lamp, or other apparatus used for the detec-
6 tion of fire-damp, the person in charge shall immediately stop the
7 machine, cut off the current at the nearest switch, and report the
8 matter to the mine foreman, or fire boss, and the machine shall
9 not again be started in such place until the mine foreman, fire

10 boss, or a person duly authorized by either has examined it and
11 pronounced it safe.

Sec. 56. No coal-cutting machine shall be continued in operation in a gaseous portion of a mine for a longer period than half an hour without an examination as above described being made for gas, and, if gas is found, the current shall at once be switched off the machine, and the trailing cable shall forthwith be disconnected from the power supply.

Duties of Machine Men.

Sec. 57. Machine runners and helpers shall use care while operating mining machines. They shall not permit any person to remain near the machine while it is in operation; they shall examine the roof of the working place, and see that it is safe before starting to operate the machine. They shall not move the machine while the cutter chain is in motion.

For violation of the foregoing provisions of sections fifty-three, fifty-four, fifty-five, fifty-six and fifty-seven the person shall, upon conviction, be fined not less than fifty nor more than three hundred dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days, in the discretion of the court.

Fire Boss and His Duties.

Sec. 58. It shall be the duty of every mine owner or operator in this state whose mines are known to liberate fire damp or other dangerous gas or gases to employ a fire boss, or bosses, (if necessary), who shall be a citizen or resident of this state, and who shall hold a certificate of competency for such position, issued to him by the department of mines, after taking an examination held by the department of mines under its rules and regulations for such examination. He shall have such knowledge of fire damp and other dangerous gases as to be able to detect the same with the use of safety lamps, and shall have a practical knowledge of the subject of the ventilation of mines and the machinery and appliances used for that purpose, and be a person with at least three years' experience in mines liberating explosive gases.

Sec. 59. It shall be the duty of said fire boss, or bosses, where employed in such gaseous mines to prepare a danger signal with red color at the mine entrance and no person except the mine owner, operator or agent, and only then in case of necessity, shall pass beyond this danger signal until the mine has been examined

6 by the fire boss, and the same or certain parts thereof reported
7 by him to be safe. It shall further be the duty of said fire boss,
8 or bosses, to go into all the working places of such mine or mines
9 where gas is known to exist, or liable to exist, and carefully ex-
10 amine the same with a safety lamp, and do, or cause to be done,
11 whatever may be necessary to remove from such working place, or
12 places, all dangerous or noxious gases, and make the same safe for
13 persons to enter therein as workmen in such mine or mines; such
14 examination and removal of said gases shall begin within three
15 hours before the time each shift commences work, and it shall be
16 the duty of said fire boss at each examination to leave evidence of
17 his presence at the face of every place examined, by plainly mark-
18 ing on a board at the face for that purpose, the date of examina-
19 tion. If the mine is safe, he shall remove the danger signal at
20 the mine entrance, or change the color thereof to safety, in order
21 that employees may enter said mine and begin work.

Sec. 60. The fire boss shall, upon having completed the ex-
2 amination of the mine before each shift, make a written record
3 of the condition of the mine within a book having a form pre-
4 scribed by the chief of the department of mines, which record shall
5 at all times be kept at the mine, subject to the inspection of the
6 district mine inspector or chief of the department of mines.

Sec. 61. In the performance of the duties devolving upon
2 the fire bosses they shall have no superior officer; but all the em-
3 ployees working inside of said mine or mines shall be subordinate
4 to said fire boss, or bosses, in his particular work.

Sec. 62. It shall be unlawful for any person to enter said
2 mine or mines for any purpose at the beginning of work upon each
3 shift therein until such signal or warning has been given by said
4 fire boss or bosses on the outside of said mine or mines as to the
5 safety thereof, as by statute provided, except under the direction
6 of said fire boss or bosses, and then for the purpose of assisting
7 in making said mine safe; and each person who shall enter such
8 mine except as aforesaid, before such notice or signal has been
9 given, or any operator, agent or fire boss who shall violate the pro-
10 visions of this act, shall be guilty of a misdemeanor and, upon
11 conviction thereof, shall be fined not less than fifty dollars nor
12 more than five hundred dollars, or imprisoned in the county jail
13 not less than sixty days nor more than one year.

Mine Foreman and His Duties.

Sec. 63. In order to better secure the proper ventilation of

2 every coal mine, and promote the health and safety of persons em-
3 ployed therein, the operator or agent shall employ a competent
4 and practical inside overseer, to be called mine foreman, who shall
5 be a citizen or resident of this state, having had at least five years'
6 experience in the working, ventilation and drainage of coal mines,
7 and who shall hold a certificate of competency for such position,
8 issued to him by the department of mines, after taking an exami-
9 nation held by the department of mines under its rules and regu-
10 lations for such examination. In mines in which the operations are
11 so extensive that all the duties devolving upon the mine foreman
12 cannot be discharged by one man, **competent persons** having had
13 at least three years' experience in coal mines may be designated
14 and appointed as assistants, who shall act under the mine foreman's
15 instruction, and shall be responsible for their conduct in the dis-
16 charge of their duties under such designation or employment.

Sec. 64. The duties of the mine foreman shall be to keep a
2 careful watch over the ventilating apparatus and the airways,
3 traveling ways, pumps and drainage; and shall see that as the
4 miners advance their excavations, proper break-throughs are made
5 as required by law to properly ventilate the mine, and that all
6 loose coal, slate and rock overhead in the working places and along
7 the haulways be removed or carefully secured so as to prevent
8 danger to persons employed in such mines; and that sufficient
9 props, caps and timbers, as nearly as possible of suitable dimen-
10 sions, are furnished for the places where they are to be used, and
11 such props, caps and timbers shall be delivered and placed at
12 such points, as the rules for the government of each respective
13 mine provide for them to be delivered. The said mine foreman
14 shall have all water drained or hauled out of the working places
15 where the same is practicable before the miners enter and said
16 working places kept dry as far as practicable while the miners are
17 at work. It shall be the duty of the mine foreman to see that the
18 cross-cuts are made, as required by law; that the ventilation shall
19 be conducted by means of said cross-cuts through the rooms by
20 means of check doors placed on the entries or other suitable places,
21 and he shall not permit any room to be opened in advance of the
22 ventilating current. The mine foreman shall measure the air cur-
23 rent with an anemometer at least twice each month at the inlet
24 and outlet and at or near the faces of the advanced headings, and
25 shall keep a record of such measurements in a book having a form
26 prescribed by the chief of the department of mines; sign boards

27 directing the way to outlets or escape way shall be conspicuously
28 placed throughout the mine.

Sec. 65. The mine foreman shall require that all slopes, engine planes and haulage roads used by any persons in the mine shall be made of sufficient width to permit persons to pass moving cars with safety; or refuge holes shall be made on one side of said haulage road not less than five feet in width, nor less than four feet in depth, and on a level with the road. The refuge holes shall be not more than sixty feet apart, and shall be kept free from obstructions. The roof and sides thereof shall be made secure and be kept whitewashed at all times.

Sec. 66. On all haulways, where hauling is done by machinery of any kind, the mine foreman shall provide a proper system of signals, and a conspicuous light on the front and rear of every trip or train of cars when in motion in a mine. When hoisting or lowering of men occurs in the morning before daylight, or in the evening, after darkness, at any mine operated by shaft, the mine foreman shall provide and maintain at the shaft mouth a light of a stationary character sufficient to show the landing and all surrounding subjects distinctly, and sufficient light of a stationary character shall be located at the bottom of the shaft so that persons coming to the bottom may clearly discern the cages and other objects closely contiguous thereto. The mine foreman shall require that no cages on which men are riding shall be lifted or lowered at a rate of speed greater than six hundred feet per minute, and that no mine cars, either empty or loaded, shall be hoisted while men are being lowered or hoisted, and no cages having an unstable self-dumping platform shall be used for the carrying of workmen unless the same is provided with some device by which the same may be securely locked when men are being hoisted or lowered into the mine.

Mine Foreman and Assistants.

Sec. 67. It shall further be the duty of the mine foreman to have bore holes kept, not less than twelve feet in advance of the face, and, where necessary, on sides of the working places that are being driven toward and in dangerous proximity to an abandoned mine, or part of mine, suspected of containing inflammable gases or which is filled with water.

Sec. 68. It shall be the duty of the mine foreman, or the assistant mine foreman, of every coal mine in this state to see

3 that every person employed to work in such mine shall, before be-
4 ginning to work therein, be instructed in the particular danger
5 incident to his work in such mine, and furnished a copy of the
6 mining law and rules of such mine. Every inexperienced person
7 so employed shall work under the direction of the mine foreman,
8 his assistant or such other experienced worker as may be designa-
9 ted by the mine foreman or assistant until he is familiar with the
10 danger incident to his work.

Sec. 69. The mine foreman or his assistants shall visit and
2 carefully examine each working place in the mine each day while
3 the miners of such places are at work, and shall direct that each
4 and every working place shall be secured by props or timbers
5 where necessary, to the end that the working places shall be made
6 safe; should the mine foreman or his assistants find a place to
7 be in a dangerous condition, they shall not leave the place until
8 it is made safe, or remove the persons working therein until the
9 place is made safe by some competent persons designated for
10 that purpose.

Sec. 70. The mine foreman shall see that every mine liber-
2 ating explosive gas is kept free of standing gas in all working
3 places and roadways. Any accumulations of explosive gas or
4 noxious gases in the worked out or abandoned portions of any
5 mine shall be removed as soon as possible after its discovery, if
6 it is practicable to remove it. No person who may be endangered
7 by the presence of said explosive gas or noxious gases shall be
8 allowed in that portion of the mine until said gases have been
9 removed. The mine foreman shall direct and see that all danger-
10 ous places and the entrance or entrances to worked out and aban-
11 doned places in all mines are properly fenced off across the open-
12 ings, so that no person can enter, and that danger signals are
13 posted upon said fencing to warn persons of the existing danger.

Removal of All Dangers Reported.

Sec. 71. The mine foreman shall give prompt attention to
2 the removal of all dangers reported to him by his assistants, the
3 fire boss, or any other person working in the mine, and in case
4 it is impracticable to remove the danger at once, he shall notify
5 every person whose safety is menaced thereby to remain away
6 from the portion where the dangerous condition exists. He or
7 his assistants shall, at least once each week, travel and examine
8 all the air courses, roads and openings that give access to old

9 workings or falls, and make a record of the condition of all places
10 where danger has been found, with ink in the book provided for
11 that purpose.

Sec. 72. The mine foreman shall notify, in writing, the
2 operator or agent of the mine of his inability to comply with any
3 of the requirements of these sections, and it shall then become the
4 duty of any operator or agent to at once attend to the matter
5 complained of by the mine foreman so as to enable him to com-
6 ply with the provisions hereof if the same can be practicably done.
7 Any operator or agent of any coal mine, or other person, who
8 shall neglect to comply with the requirements of this section
9 shall, upon conviction, be guilty of a misdemeanor and shall be
10 fined not less than fifty nor more than five hundred dollars, or
11 be imprisoned in the county jail not less than ten days nor more
12 than ninety days, in the discretion of the court.

Countersigning Fire Bosses' Report.

Sec. 73. The mine foreman shall also, each day, read care-
2 fully and countersign with ink all reports entered in the record
3 book of the fire bosses.

4 Any operator, mine foreman or assistant mine foreman fail-
5 ing to comply with any of the provisions of sections sixty-seven,
6 sixty-eight, sixty-nine, seventy, seventy-one, seventy-two and sev-
7 enty-three, shall, upon conviction, be fined not less than twenty-
8 five nor more than one hundred dollars, or imprisoned in the
9 county jail not less than ten days nor more than ninety days, in
10 the discretion of the court.

Sec. 74. In case of the death or resignation of a mine fore-
2 man, the superintendent or manager, shall appoint a certified man,
3 if one be available; and if not, he may temporarily appoint any
4 other competent man who may serve with the approval of the
5 chief of the department of mines until the next examination. He
6 shall while acting as mine foreman be liable to the same penalty
7 as the mine foreman for any violation of this act.

Explosives and Haulage.

Sec. 75. No miner or other employee shall take into any
2 mine in this state any larger quantity of powder or other explo-
3 sive than he may reasonably expect to use in any one shift, and
4 all powder shall be carried into the mine in a metallic cannister,

5 or fibre receptacle, of a capacity not to exceed five pounds, which
6 shall be properly closed with an approved top.

Sec. 76. Every miner shall thoroughly examine the roof
2 and general conditions of his working place before commencing
3 work, and if he finds loose rock or other dangerous conditions.
4 he shall not commence work in such place unless he is granted
5 permission by the mine foreman or his assistants.

Sec. 77. Every workman in want of props, cap pieces and
2 timbers shall notify the mine foreman, or such other person who
3 may be designated for that purpose, at least one day in advance,
4 giving the length and number of props or timbers and cap pieces
5 he requires; but in case of an emergency the timbers may be or-
6 dered immediately upon discovery of any danger; and it shall
7 be the duty of each miner to properly prop and secure his place
8 in order to make the same secure for him to work therein.

Sec. 78. No shots shall be fired in any place known to
2 liberate explosive gas until such place has been properly examined
3 by a competent person who is designated for that purpose, and
4 no shots shall be fired in any place where gas is detected until
5 said gas has been removed by means of ventilation.

Sec. 79. No miner shall fire more than one shot at a time,
2 and after firing said shot he shall not return to the working place
3 until the smoke has cleared away; and before starting to work
4 he shall make a careful examination as to the condition of the
5 roof, and do what is necessary to make himself safe before be-
6 ginning to load coal.

Sec. 80. In no case shall more than one kind of explosive
2 be used in the same drill hole. Every blasting hole shall be
3 tamped full from the explosive to the mouth and no coal dust
4 or inflammable material shall be used for tamping. No fuse
5 shall be used unless permission is granted by the mine foreman;
6 and in no case shall fuse be used of less length than the drill
7 hole, nor shall dynamite be used in blasting coal. Where per-
8 missible explosives are used the detonators and explosives shall be
9 kept separate; no black powder, high explosives, or detonators
10 shall be hauled on any trip operated by electric haulage motors,
11 unless enclosed in non-conducting boxes approved by the district
12 inspector.

Sec. 81. No person, except the persons necessary to operate
2 the trip or car, shall ride on any loaded car or on the outside of
3 any car, or get on or off a car while in motion. No person shall

4 be permitted to or shall enter, work in or about the mine or mine
5 buildings, tracks, or machinery connected therewith while under
6 the influence of intoxicants.

Duties of Motormen and Trip Riders.

Sec. 82. Motormen and trip riders shall use care in hand-
2 ling locomotive and cars. It shall be their duty to see that
3 there is a conspicuous light on the front and rear of each trip
4 or train of cars when in motion. They shall not permit any per-
5 son or persons to ride on locomotives or loaded cars unless granted
6 permission by the mine foreman.

7 Any person or persons who shall violate the provisions of
8 sections seventy-five, seventy-six, seventy-seven, seventy-eight,
9 seventy-nine, eighty, eighty-one or eighty-two, shall, upon con-
10 viction, be fined not less than ten nor more than fifty dollars, or
11 be imprisoned in the county jail not less than ten nor more than
12 sixty days, in the discretion of the court.

Reporting Accidents.

Sec. 83. Whenever any accident occurs in or about any coal
2 mine to any employee or person connected with the mining opera-
3 tion, resulting in personal injury or death, the operator or agent
4 shall, within twenty-four hours after the happening of such acci-
5 dent, report the same to the chief of the department of mines,
6 and to the district mine inspector of the district in which the
7 accident occurs, in writing, giving full details thereof upon forms
8 prescribed and furnished by the department of mines.

9 Any operator or agent failing to comply with the provisions
10 of this section shall, upon conviction, be fined not less than ten
11 nor more than fifty dollars, or imprisoned in the county jail not
12 less than ten nor more than thirty days.

Sec. 84. There is hereby established in the college of engi-
2 neering of the West Virginia university a mining experiment
3 station (or bureau of mine research), which shall have for its
4 purpose the conducting of investigations and making tests, to
5 better safeguard the lives of miners, and to bring about greater
6 efficiency and conservation in the mining and mineral industries;
7 to make such tests and investigations as may be required by the
8 department of mines in the prosecution of its work, to conduct
9 such experiments and tests as may promote the development of the
10 mineral industries of the state, to co-operate with the department

11 of mines in the investigation of the cause of mine disasters, and
12 common mine accidents.

13 The work of the mining experiment station (or bureau of
14 mine research) shall be conducted under such rules, regulations,
15 and methods as may be prescribed by the board of regents and
16 approved by the department of mines.

Definitions.

Sec. 85. *Mine*: In this act the term "mine" includes the shafts,
2 slopes, drifts, or incline planes connected with excavations pene-
3 trating coal stratum or strata, which excavations are ventilated by
4 one general air current, or divisions thereof, and connected by
5 one general system of mine railroads over which coal may be de-
6 livered to one or more points outside the mine, when such is op-
7 erated by one operator.

8 *Excavations and Workings*: The term "excavations and
9 workings" includes all the excavated portions of a mine, those
10 abandoned as well as the places actually being worked; also all
11 underground workings and shafts, tunnels, and other ways and
12 openings, and all such shafts, slopes, tunnels, and other openings
13 in the course of being sunk or driven, together with all roads,
14 appliances, machinery, and material connected with the same be-
15 low the surface.

16 *Shaft*: The term "shaft" means a vertical opening through
17 the strata that is or may be used for the purpose of ventilation
18 or drainage, or for hoisting men or material, or both, in connec-
19 tion with the mining of coal.

20 *Slope*: The term "slope" means an incline or opening used
21 for the same purpose as a shaft.

22 *Operator*: The term "operator" means any firm, corpora-
23 tion, or individual operating any coal mine, or any part thereof.

24 *Superintendent*: The term "superintendent" means the
25 person who shall have, on behalf of the operator, immediate
26 supervision of one or more mines.

27 *Mine Foreman*: The term "mine foreman" means the per-
28 son whom the operator or superintendent shall place in charge of
29 the inside workings of the mine and of the persons employed
30 therein.

31 *Approved Safety Lamps or Electric Lamps*: The term "ap-
32 proved safety lamps or electric lamps" shall mean any safety
33 lamp, or electric lamp, approved by the department of mines.

Sec. 86. The provisions of this act shall apply only to coal mines in which five or more persons are employed in a period of twenty-four hours; but no mine employing less than ten men shall be required to employ a mine foreman.

Sec. 87. In all prosecutions under this act the circuit court, criminal court, intermediate court and justice of the peace, shall have concurrent jurisdiction, with right of appeal.

Sec. 88. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Senate Bill No. 129

AN ACT to create a state department of health, defining its powers and duties; to change the name of the state board of health, and limit and define its duties; to amend the public health laws; to invest the department of health with the management and control of the state tuberculosis sanitarium; to provide penalties for violation; and to appropriate money for purposes of public health.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created and established a state department of health, which shall be constituted as provided in this act, and shall exercise all the powers and duties now conferred and imposed by law upon the state board of health, and such other powers and duties as are herein provided for.

The state department of health shall consist of a commissioner of health, whose office shall be located at the seat of government; a public health council, of which the commissioner shall be an *ex-officio* member; directors of divisions, and other employees as herein provided for.

Sec. 2. The commissioner of health shall be appointed by the governor, by and with the consent of the senate, and shall be a physician skilled in sanitary science, and experienced in public health administration. The term of office of the commissioner of health shall be four years; he shall receive an annual salary of three thousand dollars and necessary expenses incurred in the performance of official business, and shall not engage in any other occupation or business.

The commissioner of health shall be the administrative head of the state department of health and he shall be *ex-officio* a member of its public health council. His duties shall be to administer

12 the laws and regulations of the department; to prepare rules and
13 regulations for the consideration of the public health council;
14 and with the approval of said council, to appoint, remove, and fix
15 the compensation of the directors of divisions and all other em-
16 ployees; but said compensation shall be within the limitations of
17 appropriation therefor; to advise with the public health council;
18 keep himself informed as to the work of each local health officer
19 within the state; aid each health officer in the performance of his
20 duties; assist each local health officer in making an annual sani-
21 tary survey of the territory within his jurisdiction, and in main-
22 taining therein a continuous sanitary supervision; adjust ques-
23 tions of jurisdiction arising between local health officers within
24 the state; study the cause of excessive mortality or morbidity
25 from any disease in any portion of the state; promote efficient
26 registration of births, deaths, and notifiable diseases; inspect and
27 report from time to time the sanitary condition of institutions,
28 schools and schoolhouses, public conveyances, dairies, creameries,
29 slaughter houses, workshops, factories, labor camps, hotels, and
30 places where offensive trades or industries are conducted; inspect
31 and report the sanitary condition of streams, sources of water
32 supply, and sewerage facilities; endeavor to enlist the co-operation
33 of all physicians, and volunteer health organizations in the im-
34 provement of public health; promulgate information to the gen-
35 eral public in all matters pertaining to the public health. He
36 shall perform all executive duties now required by law of the state
37 board of health and other customary duties incident to his posi-
38 tion as chief executive officer, and shall provide for offices and
39 equipment necessary for the transaction of the business of the
40 state department of health, out of funds appropriated for the
41 state department of health.

42 He shall submit annually to the governor on or before the
43 first day of November, or as soon thereafter as practicable, a re-
44 port of the operations of the department, with any recommenda-
45 tions he may have to make, which report shall be printed and dis-
46 tributed as soon as practicable there after in the same manner as
47 other public documents of the state.

48 The commissioner whenever required by the governor shall
49 report to him as to any designated subject or matter, and furnish
50 such information as may be required.

51 The commissioner of health may direct any official or em-
52 ployee of the state department of health to assist in the study,
53 control, suppression and prevention of diseases in any part of the

54 state, and necessary expenses shall be paid while in the perform-
55 ance of such duty.

Sec. 3. The public health council shall consist of the com-
2 missioner of health and six other members, who shall be appointed
3 by the governor, by and with the consent of the senate. Said com-
4 missioner and other members shall be graduates of a regular
5 medical school and shall have had at least five years' experience in
6 the practice of medicine. Of the members, other than the com-
7 missioner, first appointed, three shall hold office for two years,
8 and three for four years; the terms of office of members thereaf-
9 ter appointed, except to fill vacancies, shall be four years. Vacan-
10 cies shall be filled by appointment for the unexpired term. The
11 public health council shall meet at least twice a year, and at such
12 other times as they shall determine by their rules, or upon the
13 request of the commissioner of health, the members, other than
14 the commissioner, to receive ten dollars per diem, not to exceed six-
15 ty days in any one calendar year, and actual and necessary trav-
16 eling expenses, when engaged in the actual discharge of their
17 duties.

18 The public health council shall elect one of its members
19 president, whose term of office shall be two years. The commis-
20 sioner of health shall be secretary of the public health council.

21 It shall be the duty of the public health council to promul-
22 gate rules and regulations; take evidence in appeals; approve
23 plans and appointments; hold hearings; advise with the com-
24 missioner of health; define the qualifications of local health au-
25 thorities, and directors of divisions, (said directors of divisions
26 shall be graduates of reputable colleges) and discharge other like
27 duties required by law of the present state board of health.

28 The public health council shall have power, by the affirmative
29 vote of the majority of its members, to establish and from time to
30 time, amend regulations under the public health laws, the en-
31 forcement of which devolves upon the state commissioner of health.

32 Every general regulation adopted by the public health council
33 shall state the day on which it takes effect, and a copy thereof, duly
34 signed by the commissioner of health, shall be filed in the office of
35 the secretary of state, and a copy thereof shall be sent by the com-
36 missioner of health to each health officer within the state, and
37 shall be published in such manner as the public health council may
38 determine. Any violation of the regulations so promulgated when
39 said regulations are reasonable and not inconsistent with the law

40 shall be a misdemeanor, and punishable by a fine of not less than
41 ten dollars nor more than three hundred dollars, and by im-
42 prisonment, in the discretion of the court, for not more than
43 thirty days in the county jail.

Sec. 4. Inspectors, examiners or other persons appointed by
2 the commissioner of health may be appointed at such time or
3 times as by him deemed necessary; and they shall act as repre-
4 sentatives of the commissioner of health, and under his direction,
5 shall secure the enforcement of the provisions of the public health
6 laws and regulations, and shall have the right of entry into any
7 workshop, public school, factory, dairy, creamery, slaughter house,
8 hotel, or other place of business or employment, or any common
9 carrier or public utility when in the discharge of official duties.
10 Any person interfering with or attempting to interfere with any
11 inspector, examiner or any other duly authorized employee of the
12 commissioner in the discharge of his duties under this section
13 shall be guilty of a misdemeanor and upon conviction fined not ex-
14 ceeding one hundred dollars.

Sec. 5. There shall be in the state department of health the
2 following divisions:

3 Division of preventable diseases;

4 Division of sanitary engineering.

5 The commissioner of health shall appoint, with the advice
6 of the public health council, a director to take charge of each di-
7 vision and shall prescribe, with the advice of the public health
8 council, the duties pertaining to each division and arrangement
9 of the sub-divisions, if any, thereof. The compensation of di-
10 rectors of divisions shall be fixed by the governor and commis-
11 sioner of health, in the manner herein provided.

Sec. 6. The state department of health shall have the au-
2 thority to enforce all the laws of the state concerning the public
3 health, and shall take care to protect the life and health of the in-
4 habitants of the state and to that end shall make or cause to be
5 made sanitary investigations and inquiries respecting the cause of
6 diseases, especially of epidemics, endemics and the means of pre-
7 vention, suppression or control, the source of mortality and the
8 effects of localities, employments, habits and circumstances of life
9 on the public health, and shall gather information in respect to
10 these matters, and kindred subjects for diffusion among the peo-
11 ple. It shall inspect and examine food, drink and drugs offered
12 for sale or public consumption in such manner as shall be deemed

13 necessary, and shall report all violations of all laws of this state
14 relating to pure food, drink and drugs to the prosecuting attorney
15 of the county in which such violations occur, and lay before such
16 prosecuting attorney the evidence in its knowledge of such viola-
17 tions. The commissioner of health, or any member of the public
18 health council, may make complaint and cause proceedings to be
19 instituted against any person or persons or corporation for a vio-
20 lation of any of the health laws of this state, without the sanction
21 of the prosecuting attorney of the county in which proceedings
22 are instituted, if said officer fail or refuse to discharge his duty,
23 and in no such cases shall they be required to give security for
24 costs.

Sec. 7. Whenever the character and location of plumbing,
2 drainage, water supply, sewers and disposal of sewage, garbage,
3 or other waste materials of cities, towns and villages, offensive
4 trades, hotels and labor camps; and the ventilation, warming, nat-
5 ural lighting and extra disposal in public utilities, in public halls,
6 churches, school houses, work shops, prisons and all other public
7 institutions, are such as to endanger the public health, the public
8 health council shall have power to make and enforce rules regu-
9 lating the same.

10 It shall promulgate and recommend regulations, not incon-
11 sistent with law, governing the disposal of excreta in coal mines,
12 examine into and advise with the chief of department of mines as
13 to the ventilation of coal mines, and how to treat promptly acci-
14 dents resulting from poisonous gases. Nothing herein contained
15 shall be construed to give the state department of health the pow-
16 er to regulate or interfere with the drainage from any mine or
17 manufacturing plant unless the drainage from said mine or manu-
18 facturing plant shall contain disease-producing bacteria in suffi-
19 cient numbers to endanger health. The state department of health
20 is empowered to establish and strictly maintain quarantine at such
21 places as it may deem proper, and may adopt rules and regulations
22 to obstruct and prevent the introduction or spread of small-
23 pox or other contagious or infectious diseases into or within the
24 state, and shall have the power to enforce these regulations by de-
25 tention and arrest, if necessary. It shall have power to enter into
26 any town, city, factory, railroad train, steamboat, or other place
27 whatsoever, and enter upon and inspect private property for the
28 purpose of investigating the sanitary and hygienic conditions and
29 the presence of cases of contagious and infectious diseases, and

30 may, at its discretion, take charge of any epidemic or endemic con-
31 ditions, and enforce such regulations as it may prescribe. All ex-
32 penses for guards, or other expenses incurred in controlling any
33 endemic or epidemic conditions shall be paid by the county or mu-
34 nicipality in which such epidemic occurs.

35 The state department of health shall provide, at its discre-
36 tion, vaccine lymph, diphtheria antitoxin, tetanus antitoxin and
37 other forms of serum or vaccine preventives of disease that it may
38 deem necessary, and distribute same free of charge to county and
39 municipal health officers, to be used for the benefit of the poor and
40 indigent, and in other cases where it may be urgently necessary to
41 check contagions and control epidemics.

Sec. 8. The commissioner of health shall inquire into and
2 investigate all nuisances affecting the public health in any county,
3 city or village in the state, and is authorized and empowered to
4 apply to the judges or to any judge of the circuit court for the
5 county in which such nuisance shall exist. in term or vacation,
6 for an injunction forthwith to restrain. prevent or abate such
7 nuisances.

Sec. 9. When in the opinion of the public health council
2 any local health authority shall fail or refuse to enforce necessary
3 laws and regulations to prevent and control the spread of contag-
4 ious or infectious disease declared to be dangerous to the public
5 health, or when, in the opinion of the said council, a public health
6 emergency exists, the commissioner of health may enforce the rules
7 and regulations of the state department of health within the terri-
8 torial jurisdiction of such local health authorities, and for that
9 purpose shall have and may exercise all the powers given by stat-
10 utes to local health authorities; all expenses so incurred to be a
11 charge against the counties, cities, or towns concerned. And in
12 such cases, the failure or refusal of any local health officer or local
13 health body, to carry out the lawful orders and regulations of
14 the public health council, shall be sufficient cause for the re-
15 moval of such local health officer or local health body from office,
16 and upon such removal the proper county or municipal authorities
17 shall at once nominate a successor other than the person removed
18 as now provided by law.

Sec. 10. The public health council shall make regulations to
2 provide clean and safe milk and fresh milk products and when
3 promulgated these regulations shall be the minimum requirements
4 to be enforced by local health authorities throughout the state.

Sec. 11. The state department of health shall have the advisory medical supervision of the state tuberculosis sanitarium, and the state board of control shall have the control of the business and fiscal affairs thereof. The director of the division of preventable diseases under the supervision of the commissioner of health, shall encourage measures for the suppression of tuberculosis, such as clinics, camps, open air schools, sanatoria, district nursing, anti-tuberculosis societies, diffusion of knowledge, and other means.

Sec. 12. The public health council, consisting of the commissioner of health and six other members as specified in section three of this act, shall, in addition to the duties hereinbefore or hereinafter specified, examine all applicants for license for the practice of medicine and surgery in this state, and issue certificates of license to all applicants who are legally entitled to receive same; and said certificates of license shall be signed by the president of the council and by the commissioner of health as secretary thereof. The examination of applicants and the issuing of certificates of license thereto shall be governed by sections nine, ten and eleven of chapter one hundred and fifty of the code of West Virginia, and the words "state board of health," wherever used in said sections, shall mean public health council, as established by this act. The term "practice of medicine and surgery" as used by this act shall be construed to be treatment of any human ailment or infirmity by any method. To open an office for such purpose or to announce to the public in any way a readiness to treat the sick or afflicted, shall be deemed to engage in the practice of medicine and surgery within the meaning of this act; *provided*, this clause shall not apply, however, to regularly registered optometrists.

Sec. 13. The commissioner of health, may, with the advice of the public health council, establish branches of the hygienic laboratory at such points within the state as he may deem necessary in the interest of the public health to insure prompt bacteriologic examinations, and for said purpose may expend annually a sum not in excess of one thousand dollars. The right of appeal from any order of the public health council or any of its officers or agents, shall lie to the circuit court of the county where the property rights or personal liberties have been affected, and the right of appeal shall be limited to thirty days from the time a general order is entered.

Any two or more counties may combine to co-operate with the state department of health, either by special vote or by vote of

14 their respective boards of health, and participate in the employ-
15 ment of trained health officers and other agents or in the installa-
16 tion and maintenance of a common laboratory and other equip-
17 ment. Whenever such counties shall decide to so co-operate and
18 shall appropriate a sum or sums of money for such joint or co-
19 operative action, a sum equal to two-fifths of the total amount con-
20 tributed by the co-operating counties, shall be added thereto from
21 the appropriation made for the state department of health; *pro-*
22 *vided*, that the general place of co-operation, as well as the princi-
23 pal health officer, executive agent or laboratory director employed
24 by such counties shall first have been approved by the public health
25 council; and, *provided, further*, that no sum so paid to any group
26 of counties, shall exceed five hundred dollars in any one year; and
27 provided such co-operation by the state department of health shall
28 be limited to not more than three thousand dollars annually.

Sec. 14. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

Senate Bill No. 99.

AN ACT to amend and re-enact section thirty-one of chapter one hundred and forty-five of the code of West Virginia, being serial section five thousand two hundred and thirty-three, concerning wilful injury to bridges, tracks, engines and other property of railway companies or others; murdering, maiming or disfiguring persons on trains; shooting at or on passenger cars; disorderly conduct on trains and cars; powers of conductors, flagmen and brakemen; special police officers for railroad companies; appointment, removal, powers and duties.

Be it enacted by the Legislature of West Virginia:

Section 31. Any person who shall wilfully and unlawfully in-
2 jure, impair, weaken, destroy or misplace any building, bridge,
3 rail, track, side-track, switch, rail bonds, spur-track, work, engine,
4 machine, locomotive, hand-car, depot, car, trestle, telegraph line,
5 telegraph pole, telegraph wire, telegraph instrument, or any other
6 instrument, machine, invention, or mechanical or electric appli-
7 ance whatever, which may be, or is now used by any company
8 operating or using any railroad, or other line or work of internal

9 improvement in this state; or obstruct any corporation which is
10 the owner or lessee of any railroad, or other work of internal im-
11 provement, in this state, in the use of any such property, shall
12 be guilty of a misdemeanor, and shall be fined not exceeding one
13 thousand dollars, and imprisoned not exceeding six months; and
14 if the death of any person occur in consequence of any such un-
15 lawful act, the person or persons committing the same shall be
16 guilty of murder, and punished accordingly. Or if any person
17 on a train or locomotive or passenger car is maimed or disfigured
18 by reason of any such unlawful acts, the person convicted of caus-
19 ing the same shall be guilty of a felony, and shall be punished by
20 confinement in the penitentiary not less than one year nor more
21 than twenty years. And if any person shall shoot or throw stones,
22 or other dangerous missiles, at or into any passenger car, or
23 other railroad car used for carrying passengers, or other persons,
24 while any such passenger or other person is within the same, he
25 shall be guilty of a felony and shall be confined in the penitentiary
26 not less than two nor more than ten years. And if any person,
27 whether a passenger or not shall, while on any passenger car or
28 on any train of cars, behave in a riotous or disorderly manner, he
29 shall be guilty of a misdemeanor, and fined not less than twenty-
30 five dollars nor more than two hundred dollars, and may, at the
31 discretion of the court, be confined in jail not less than one nor
32 more than six months, and may be ejected from such car or
33 train by the person or persons in charge thereof; and such
34 force as is necessary for that purpose may be used by such
35 persons in charge of such passenger car or train of cars with
36 such other person as they may call to their aid. And the con-
37 ductor of every passenger car, and flagman and brakeman em-
38 ployed on such car, as well as the conductor of every train of
39 railroad cars, shall have all the powers of a conservator of the peace
40 while in charge of such car or train; and all conductors in charge of,
41 and all flagmen and brakemen, not exceeding two, employed on any
42-a passenger train or passenger car, wholly within this state, or run-
43 ning into the state from another state, or through this state,
44 whether they are residents of this state or not, may obtain a license
45 to carry about their person a revolver or other pistol while in the
46 discharge of their duties, in the manner and under
47-a such provisions as are provided in chapter fifty-one of
48 the acts of one thousand nine hundred and nine. Any rail-
49 road company owning or leasing and operating, or using any rail-

48 road lying wholly or partly within this state, whether such rail-
49 road be operated by steam or electric power, may apply to the
50 governor to appoint such citizen, or citizens, of this state as such
51 railroad company may designate, to act as special police officers for
52 such railroad company, with the consent of said citizen
52-a or citizens; and the governor may, upon such applica-
53 tion, appoint and commission such person or persons, or so many
54 of them as he may deem proper, as such police officers. Every
55 police officer so appointed shall appear before some person author-
56 ized to administer oaths and take and subscribe the oath prescribed
57 in the fifth section of the fourth article of the constitution, and
58 shall file such oath with the clerk of the county court, or other
59 tribunal established in lieu thereof, of the county in which he
60 shall reside. He shall also file certified copies of such oath in the
61 office of the secretary of state, and in the office of the clerk of the
62 county court, or other tribunal established in lieu thereof, of each
63 county through which such railroad or any portion thereof may
64 extend. Every police officer appointed under the provisions of
65 this act shall be a conservator of the peace within each county in
66 which any part of said railroad may be situated, and in which
67 such oath or a certified copy thereof shall have been filed with the
68 clerk of the county court or other tribunal established in lieu
69 thereof; and, in addition thereto, he shall possess and may exercise
70. all the powers and authority, and shall be entitled to all the
71 rights, privileges and immunities within such counties as are now
72 or hereafter may be vested in or conferred upon the regularly
73 elected or appointed constables of said county. Any appointment
74 made by the governor under the provisions of this act may be re-
75 voked by him for good cause shown, and such police officers may
76 be removed from office for official misconduct, incompetence.
77 habitual drunkenness, neglect of duty or gross immorality, in the
78 same manner in which regularly elected or appointed constables
79 may be removed from office; and whenever any such railroad
80 company shall desire to dispense with the services of any such
81 police officer, it may file a notice to that effect, under the cor-
82 porate seal, attested by its secretary, in each of the several offices
83 in which such oath or certified copy thereof shall have been filed:
84 and, thereupon, the powers of such police officer shall cease and
85 determine. Such police officers may wear such uniform and badge.
86 or either, of authority as the railroad company, upon whose appli-
87 cation they were appointed, may designate, and such railroad com-

88 pany shall pay them for all services rendered by them pursuant
89 to such appointment.

Senate Bill No. 340

AN ACT to amend and re-enact section nineteen of chapter thirteen, acts of one thousand nine hundred and thirteen, relating to prohibiting the manufacture, sale and keeping for sale of intoxicating liquors.

Be it enacted by the Legislature of West Virginia:

That section nineteen of chapter thirteen, acts of the legislature of one thousand nine hundred and thirteen, relating to prohibiting the manufacture, sale and keeping for sale of intoxicating liquors, be amended and re-enacted so as to read as follows:

Section 19. All express companies, railroad companies and transportation companies within this state are hereby required to keep books in which shall be entered immediately upon receipt thereof the name of every person to whom liquors are shipped; the amount and kind received; the date when delivered, and by whom, and to whom delivered; after which record shall be a blank space, in which the consignee shall be required to sign his name in person to such record, which book shall be open to the inspection of any state, county or municipal officer of this state, at any time during business hours of the company; except that in the absence or sickness of a duly licensed druggist, having authority to sell pure grain alcohol and wine for the purposes prescribed by law, a registered pharmacist in the employ of such druggist, duly designated by such druggist, in writing personally signed by him, to the agent of the transportation company, may sign such druggist's name to the record of shipments of alcohol for medicinal, pharmaceutical, scientific and mechanical purposes, or wine for sacramental purposes by religious bodies, such registered pharmacist being required to write immediately beneath such druggist's name his own name and his connection with such druggist. Such books shall constitute *prima facie* evidence of the facts therein stated, and be admissible as evidence in any court in this state having jurisdiction, or in any manner empowered with the enforcement of the provisions of this act.

Any employee, or agent of any express, railroad company or trans-

26 portation company knowingly failing or refusing to comply with
27 the provisions of this section, shall be guilty of a misdemeanor
28 and punished by a fine of not less than fifty nor more than one
29 hundred dollars, and may be imprisoned in the county jail not
30 less than thirty days nor more than six months. *Provided, how-*
31 *ever,* that nothing herein contained shall permit, or be construed
32 as permitting or authorizing any common carrier or trans-
33 portation company to bring or carry into this state, or carry
34 from one place to another within the state, intoxicating liquors
35 for another, even when intended for personal use, other than
36 pure grain alcohol and wine, and such preparations for druggists
37 as may be sold by them for the special purposes and in the man-
38 ner set forth in sections four and twenty-four.

39 All acts or parts of acts inconsistent herewith are hereby
40 repealed.

Senate Bill No. 11

AN ACT providing for the nomination of candidates for public office, including candidates for United States senator; members of the United States house of representatives; delegates to the national political convention; selection of members of party executive committees: the designation of party preference for president of the United States; defining and regulating political parties; and to repeal conflicting laws.

Be it enacted by the Legislature of West Virginia:

Section 1. Hereafter the members of all state executive
2 committees, all district executive committees, and county execu-
3 tive committees, and delegates to national conventions of every
4 political party shall be chosen, and all candidates of political
5 parties to be voted for by the people (except candidates for judges
6 of the supreme court of appeals, candidates for judge of the circuit
7 court, and candidates for judge of the criminal or intermediate
8 court, and such candidates as are to be voted for at special election
9 to fill vacancies, presidential candidates and electors, and candidates
10 for office to be filled by cities, towns or villages of less than five
10-a thousand inhabitants) shall be nominated at a direct primary
10-b election, held in accordance with this act.

11 For the purposes of this act a municipality shall be taken
12 to be an incorporated town or city of not less than five thousand
13 inhabitants. A political party shall be taken to be an affiliation
14 of electors representing a political party or organization, which
15 at the last preceding general election polled for its candidates for
16 representatives in congress in the several districts, at least three
17 per cent. of the entire vote cast for that office in the state.

Sec. 2. Primary elections for the purposes of this act, other
2 than for nominating municipal candidates, shall be held in each
3 election precinct in the state on the first Tuesday in June, next
4 before the general election in the year in which a president of the
5 United States is to be elected: and in all other years, on the first
6 Tuesday in August, next before every general election; and be
7 known and designated as the June and August primaries, respec-
8 tively. The time of holding any such general primary election,
9 and describing the object thereof, shall be published in two news-
10 papers—if any there be—of the two opposite parties which polled
11 the largest number of votes at the preceding general election, and
12 published in each county of the state, of general circulation therein,
13 once a week for two successive weeks next preceding the date of
14 any such primary election. The time for holding primaries for
15 the purpose of nominating municipal candidates shall be fixed by
16 charter or ordinance of the respective municipalities; *provided*,
17 that no such municipal primary shall be held on the same day as
18 the general primary, nor less than twenty-five days immediately
19 preceding the corresponding municipal election. The time of hold-
20 ing any such general or municipal primary election, and describing
21 the object thereof, shall be published in two newspapers—if any
22 there be—of the two opposite parties which polled the largest
23 number of votes at the preceding general election, and published
24 in each county of the state, of general circulation therein, once a
25 week for two successive weeks next preceding the date of any such
26 primary election. At all primary elections the polls shall be opened
27 at six-thirty o'clock, A. M., and closed at thirty minutes after six
28 o'clock, P. M., eastern standard time. Said primary shall be con-
29 ducted in one room at the regular voting place in each precinct.

Sec. 3. For the purposes of this act, there shall be chosen
2 at the June primary for each political party, as hereinafter pro-
3 vided, a state executive committee, consisting of two members
4 from each senatorial district, to be selected by the party voters
5 in such district, and who shall not be residents of the same county;

6 *provided, however*, that the committee elected shall appoint three
7 additional committeemen at large; a congressional executive com-
8 mittee; a judicial executive committee, and a state senatorial execu-
9 tive committee for each of the respective congressional, judicial
10 and state senatorial districts, each committee to consist of one
11 member from each county in the respective districts, to be elected
12 by the party voters of such county; and a county executive com-
13 mittee, consisting of two members from each magisterial district
14 therein, except that in all cities of ten thousand or more in popula-
15 tion there shall be one additional member of the executive com-
16 mittee from each ward. All members of executive committees
17 selected for each political division, as herein provided, shall reside
18 within the county or district, senatorial or magisterial, from which
19 chosen; *provided*, that no person holding any appointive or elective
20 political office shall be eligible to serve on any of the committees
21 named in this section.

22 The term of office of all committeemen so elected shall
23 begin on the fifteenth day of June, succeeding said June primary,
24 and shall continue for four years thereafter and until their suc-
25 cessors are elected and qualified. Vacancies in the state execu-
26 tive committee shall be filled by the members of the committee
27 for the unexpired term. Vacancies in the congressional, judicial,
28 senatorial and county executive committees shall be filled by the
29 executive committee of the county in which such vacancy exists,
30 and shall be for the unexpired term.

31 As soon as possible after the fifteenth of June, succeeding
32 the selection of the new executive committees as herein provided,
33 they shall convene within their respective political divisions, on
34 the call of the chairman of corresponding outgoing executive
35 committees, and proceed to select a chairman, a treasurer, and a
36 secretary, each of which officers shall for their respective commit-
37 tees perform the duties that usually appertain to such offices.

38 The various executive committees and officers thereof, now
39 in existence, shall exercise the powers and possess the duties herein
40 prescribed until their successors are chosen in accordance with
41 this act.

Sec. 4. The county court of every county shall hold a reg-
2 ular or special session at the court house of their county, on the
3 second Tuesday of the month next preceding the month in which
4 any primary election is to be held, and shall appoint three quali-
5 fied voters as commissioners of election, and two poll clerks, for

6 each precinct in their county, who shall be legal voters in such
7 precinct. Said commissioners and poll clerks shall be persons of
8 good standing and character, and not addicted to drunkenness.
9 They shall be selected from the two political parties which at the
10 last preceding general election cast the highest number of votes in
11 the county in which the election is to be held, and not more
12 than two of said commissioners shall belong to the same politi-
13 cal party. But if at any time during said session the county
14 executive committee of either political party from which said
15 commissioners of election and poll clerks are to be selected or
16 appointed, as hereinafter provided for, shall present to said court
17 a writing signed by them, or by the chairman of said committee
18 on their behalf, requesting the appointment of a qualified voter
19 of their political party for commissioner and poll clerk, respective-
20 ly, and who is otherwise qualified to act as such under the pro-
21 visions of this act, it shall be the duty of the county court to
22 appoint the person so named in such writing as such commis-
23 sioner and poll clerk. No person shall be eligible to appointment
24 as commissioner or poll clerk, or in any way to act as such, who
25 has anything of value bet or wagered on the result of such primary
26 election or has received a promise, agreement or understanding that
27 he is to receive appointment as deputy from any candidate to be
28 voted for at such primary election, or has any agreement, under-
29 standing or arrangement that he shall receive any sum of money
30 or any portion of the salary, fees or emoluments of any office, for
31 which any candidate to be voted for, at said primary election,
32 should said candidate be nominated at such primary election and
33 elected to such office at the ensuing general election, or who is a
34 candidate to be voted for at such primary election.

35 If any of the commissioners of election and poll clerks so
36 selected shall fail to appear at the hour appointed for the opening
37 of the polls, the remainder of the commissioners may select a
38 commissioner and poll clerk, if necessary, who shall be of the same
39 political party as the absent commissioner or poll clerk; but if
40 the qualified voters of the party of such absent commissioner or
41 poll clerk, present at the polls, shall nominate a voter having the
42 same qualifications to act under the provisions of this section, for
43 commissioner or poll clerk, or both if necessary, such nominee or
44 nominees shall be appointed. If none of the commissioners of
45 election or poll clerks appear at the hour appointed for opening
46 the polls, the qualified voters present, being at least ten in number,

47 shall elect three commissioners of election, and two poll clerks,
48 to act in their stead, by a *viva voce* vote; not more than two of
49 such commissioners and one poll clerk shall belong to or be elected
50 by the same political party, as herein provided for.

51 A list of all commissioners and poll clerks appointed by the
52 county court as herein provided, shall be published in two news-
53 papers of general circulation in the county, of opposite politics,
54 if such there be, for at least two weeks prior to such general
55 primary election.

Sec. 5. The said county executive committees, or the chair-
2 men thereof, mentioned in section four of this chapter, shall on
3 or before the second Tuesday next preceding the month in which
4 any primary election is to be held, name a member of their re-
5 spective parties, as a primary ballot commissioner, who, together
6 with the clerk of the circuit court, shall constitute a board of pri-
7 mary ballot commissioners for such primary election. If any
8 person so named fails or refuses to serve as such ballot commis-
9 sioner, the vacancy shall be filled by the chairman of the execu-
10 tive committee.

Sec. 6. The clerk of the county court shall provide and
2 cause to be delivered to one of said commissioners in each of the
3 several election precincts of said county at least three days pre-
4 vious to any primary election, a duly certified copy of the list of
5 registered voters for their respective precincts; also (after the first
6 general primary), the affirmation books used at the respective pre-
7 cincts at the last preceding general election; also the blank affirma-
8 tion book called for in section thirteen of this act, which blank book
9 shall have pages arranged for signing names alphabetically, with
10 columns for entering place of residence, street and number; also
11 proper poll books bearing on the front page of each the following
12 head: "Names of persons voting for candidates, at precinct
13 number, in the district of, in the county of,
14 this day of, in the year" Said poll books
15 shall have columns headed respectively, "Number of Voters;"
16 "Names of Voters;" "Residence of Voters;" "Party Affiliation."
17 The oath of commissioners of election and poll clerks shall be
18 written or printed on said poll books and two copies of said poll
19 books supplied for each voting precinct for each political party
20 as represented at the same. Each clerk shall list the name of
21 each voter in the proper poll book, and properly set out the infor-
22 mation as to each as indicated in the heading of the column in

23 said poll books. The said clerk of the county court shall also fur-
 24 nish proper booths and ballot boxes as provided at general elec-
 25 tions; and also strong and durable envelopes for returns, and
 26 whatever else is necessary for holding the primary election and
 27 making due return thereof, as herein provided.

Sec. 7. Each commissioner and clerk of said primary elec-
 2 tion before entering upon the discharge of his duties, shall take
 3 and subscribe the following oath:

Oath of Commissioner.

5 State of West Virginia,)

6) ss.

7 County.)

I,, do solemnly swear that I will
 9 support the constitution of the United States and the constitu-
 10 tion of this state: that I will faithfully and impartially discharge
 11 the duties of commissioner of primary election assigned by law;
 12 that I will not knowingly permit any person to vote who is not
 13 qualified, and will not knowingly refuse the vote of any qualified
 14 voter, or cause any delay to persons offering to vote further than
 15 is necessary to procure satisfactory information of the qualifica-
 16 tions of such person as a voter; and I have been a resident of the
 17 state of West Virginia for one year, and of the county and magis-
 18 terial district and of the precinct in which I am to act as commis-
 19 sioner of primary election, for sixty days next preceding this date;
 20 and that I will not disclose nor communicate to any person how any
 21 voter has voted at such election, nor how any ballot has been folded,
 22 marked, printed or stamped; that I have nothing of value bet or
 23 wagered upon the result of said election or have received a promise,
 24 agreement or understanding that I am to receive appointment as
 25 deputy from any candidate to be voted for at such primary election,
 26 or have any agreement, understanding or arrangement that I shall
 27 receive any sum of money or any portion of the salary, fees or
 28 emoluments of any office, for which any candidate is to be voted for
 29 at said primary election, should said candidate be nominated at
 30 such primary election and elected to such office at the ensuing
 31 general election, and am not a candidate at this election. So help
 32 me God.

.....

33 Subscribed and sworn to before me this day of

Oath of Poll Clerk.

34 State of West Virginia, }
 35 County. } ss.

36 I, do solemnly swear that I will faithfully and
 37 honestly discharge my duties as clerk of the primary election now
 38 about to be held in precinct No.....in the district ofcounty
 39 of, state of West Virginia, and that I will not disclose nor
 40 communicate to any person how any elector voted, nor how any bal-
 41 lot was folded, marked, printed or stamped, nor have I a prom-
 42 ise, agreement or understanding that I am to be appointed as dep-
 43 uty by any candidate voted for at such primary election, or have
 44 an agreement, understanding or arrangement that I am to receive
 45 any sum of money or any portion of the salary, fees or emolu-
 46 ments from any office for which any candidate is to be voted for at
 47 said primary election, should such candidate be nominated at
 47-a such primary election, and elected at the ensuing general elec-
 47-b tion.

48 Subscribed and sworn to before me this.....day of.....

49 Said oaths may be taken before any person authorized to
 50 administer oaths, but if no such person be present at any place
 51 of holding any primary election, they may be taken before, and
 52 administered by, one of the commissioners of such election so ap-
 53 pointed, who in turn may take the same before another of said
 54 commissioners. Either of said commissioners may administer the
 55 oath to the poll clerks. For the purposes of this act all commis-
 56 sioners of election are authorized to administer oaths.

Announcement of Candidates.

Sec. 8. Any person who is eligible to hold any office (includ-
 2 ing member of a state or a county executive committee) may file
 3 with the secretary of state, if it be for an office to be filled by the
 4 voters of more than one county, or with the clerk of the circuit
 5 court, if it be for an office to be filled by the voters of a county
 6 or a sub-division less than a county, a certificate declaring him-
 7 self a candidate for the nomination for such office, which certificate
 8 shall be in form or effect as follows:

9 I hereby certify that

10 I am a candidate for the nomination for the office of
 11 to represent party, and desire my name printed on
 12 the official ballot of said party to be voted at the primary election
 13 to be held on the day of 19....;
 14 that I am a legally qualified voter of the county of.....,
 15 state of West Virginia; that my residence address is number
 16 of street, in the city (or town) of....
 17 in county, in said
 18 state; that I am eligible to hold the said office; that I am a mem-
 19 ber of and affiliated with said political party, and intend to sup-
 20 port the same in the ensuing general election; that I am a candi-
 21 date for said office in good faith.

22
 23 (Signature of Candidate)

24 Subscribed to and acknowledged before me this.....
 25 day of..... 19.....

26
 27 (Signature of officer taking acknowledgement)

28 Such announcement shall be signed and acknowledged by the
 29 candidate before some officer qualified to administer oaths, who
 30 shall certify the same.

Sec. 9. Within thirty days before the day fixed by law for
 2 any general primary election, the secretary of state shall arrange
 3 all the names of all the candidates who have filed announcements
 4 with him, as provided by this act, and who are entitled to have their
 5 names printed on any political party ballot in accordance with
 6 the provisions of this chapter, and shall forthwith certify the
 7 same under his name and the lesser seal of the state, and file the
 8 same in his office, and make and transmit a duplicate thereof by
 9 registered mail to the clerk of the circuit court of each county in
 10 the state, in which such candidate or candidates is or are to be vot-
 11 ed for. He shall also post a duplicate of such list or lists in a con-
 12 spicuous place in his office, and keep the same posted until after
 13 said primary election has taken place. In case of emergency, the
 14 secretary of state may transmit such duplicate list or lists by tele-
 15 graph. Said certifications to be made by the secretary of state as
 16 herein provided, shall give the name and residence of each candi-
 17 date; the name of the office for which he is a candidate; the name
 18 of political party of which he is a candidate; and upon what ballot
 19 his name is to be printed as such candidate.

Sec. 10. There shall be a separate ballot of candidates of each political party who may file their petition and pay the assessments as required by this act, on different color of paper, and the ballot of no two parties shall be of the same color or tint. The secretary of state shall select and determine the color of the paper of the ballot of each of the respective parties, and shall notify the clerk of the circuit court of each county thereof; at the same time he shall certify the names of the candidates of the various parties to said clerk, as hereinbefore provided.

The same color of paper as selected and designated by the secretary of state for any party shall also be used for sample ballot of such party; but there shall be printed across the face of such sample ballot in large letters, the words, "Sample Ballot," and no sample ballot shall be voted or counted.

The secretary of state shall not certify the name of any candidate to the clerk of the circuit court until and unless such candidate shall have paid the assessments provided by this act; and the name of no candidate shall be placed on the primary ballot of his party, unless he has paid all assessments required by this act.

Sec. 11. At least fifteen days before the holding of any primary election, the primary ballot commissioners of each county shall prepare from the list and certificate or certificates furnished by the secretary of state, and the announcements filed with the circuit clerk as herein provided, a sample official primary ballot for each party, placing thereon the names of all candidates of such party to be voted for at said primary election, and publish the same in a newspaper of general circulation published in said county representing such party, if one there be; if not, then in some other newspaper published in said county, in at least two issues of such paper. Said ballot commissioners shall cause the official ballots to be used at said primary election to be printed and distributed as required in case of ballots at any general election; except that the number thereof shall be for each party twice the number of votes cast by such party at the last preceding general election.

Sec. 12. Said official primary ballot shall contain at the left of each column of names of candidates a perpendicular column, and so printed as to leave a square at the left of each name on the ballot.

On said primary ballot, the names of candidates for President of the United States, United States senator, for representa-

7 tives in congress, and delegates to the national convention of the
8 party shall be placed in the first column of candidates; the names
9 of candidates for all state offices, except judges of the supreme
10 court of appeals, and all other offices to be filled by the voters of
11 a political division greater than a county, including the state
12 executive committee, in the second column, the names of all candi-
13 dates for county offices, except judges of the circuit, criminal or
14 intermediate courts, including members of the house of delegates,
15 and congressional, judicial and senatorial committeemen, in the
16 third column; and the names of all candidates for office in the
17 magisterial districts, including members of the county executive
17-a committee, shall be placed in the fourth column.

18 The face of every primary election ballot shall conform as
19 nearly as practicable to the form given below, and in all respects
20 the general form of the ballot used, both front and back, shall be
21 that of the ballot used at the general election.

22 The secretary of state, or the circuit clerk, as the case may
23 be, shall arrange the names of the candidates to be printed on the
24 ballot in alphabetical order.

OFFICIAL BALLOT OF

The.....Party.

Primary Election, 19...

30 To vote for a candidate make an X in the square opposite
 31 to and to the left of his name.

	NATIONAL		STATE
	For President: (Vote for one)		For Governor: (Vote for one)
	A. B.		G. H.
	C. D.		I. J.
	E. F.		K. L.
	For U. S. Senator: (Vote for one)		For Auditor: (Vote for one)
	B. A.		H. G.
	D. C.		J. I.
	For Congress: (Vote for one)		For State Senator: (Vote for one)
	L. M.		A. A.
	N. T.		B. S.

COUNTY	DISTRICT
For Sheriff: (Vote for one)	For Justice of the Peace: (Vote for one)
M. N.	W. T.
O. P.	U. V.
Q. R.	W. X.
For Pros. Attorney: (Vote for one)	For Constable: (Vote for one)
N. M.	T. W.
P. O.	U. X.
For House of Dele- gates: (Vote for one)	For County Com- mittee: (Vote for one)
N. M.	T. R.
E. R.	O. H.

32 All ballots used in primary elections shall be printed on paper
 33 conforming as nearly as practicable in weight, texture and color, to
 34 the samples furnished by the secretary of state, and the paper
 35 shall be sufficiently thick that the printing can not be discernible
 36 from the back. On the back of the ballot shall be printed in black
 37 ink, and in plain, legible, black face pica type the name of the
 38 political party as contained in the heading, followed by the word
 39 "ballot." Under this designation shall be printed blank lines
 40 followed by the words, "poll clerks."

Sec. 13. On entering the election room, the voter shall an-

2 nounce his name, and if he is duly registered, or has obtained
3 transfer as provided by law, he shall sign his name and place
4 of residence in a book of the party whose ballot he wishes to cast,
5 which book shall be paged alphabetically, and have at the top of the
6 page thereof in form and effect the following oath or affirmation
7 with blank spaces properly filled in as to the party and precinct as
8 indicated: "The undersigned do each for himself severally swear or
9 affirm that I am a regular and qualified member and voter of the
10 party, and am a duly qualified resident and voter
11 in precinct No., district,
12 county, West Virginia, and reside at the place designated opposite
13 my name signed hereunder; that the one ballot which I am about
14 to cast will be the only primary election ballot cast this day by me;
15 that I have neither received, nor do I expect to receive, anything of
16 value for myself or another, given or promised with the manifest
17 intent to influence my vote or the vote of another or others at
18 this time."

19 Having so signed, said voter shall be allowed to cast the bal-
20 lot of the party named in said oath or affirmation. Every voter
21 whose name is so signed upon said affirmation book, shall be conclu-
22 sively presumed to have taken the same in due form. Said affirma-
23 tion book, together with all written affidavits made at said primary,
24 shall be placed in a strong and durable envelope and securely
25 sealed by the commissioners of election, and each commissioner
26 shall write his name across the back of such envelope, which shall
27 be delivered by one of said commissioners to the clerk of the circuit
27a court, who shall preserve said affirmation book in his office,
27b and deliver the affidavits to the foreman of the grand jury when
28 next in session, as provided by section eighty-three of chapter three
29 of the code. Those falsely making affidavits shall be subject to
30 the same penalties as provided in section fifty-one of the same
31 chapter, in connection with all other penalties prescribed by law.
32 Section fifty of said chapter three of the code is specifically made
33 to apply to primary elections.

34 The clerks shall write their names at the place designated on
35 the back of the official ballot called for, and deliver it to the voter,
36 who shall have but one ballot, unless he shall return the same
37 spoiled; if he shall return the same spoiled, the clerks shall im-
38 mediately destroy the ballot so spoiled, and deliver to him another
39 ballot in the same manner as they delivered the first one. The

40 voter shall then forthwith, and without leaving the room, retire
41 alone to the booth or compartment prepared for the purpose, and
42 there prepare his ballot. Any voter who so desires shall receive
43 the assistance as provided in section sixty of chapter three of the
44 code. After preparing the ballot the voter shall fold the same so
45 that the face shall not be exposed, but so fold it as to show plainly
46 the name of the political party and the names of the poll clerks
47 signed thereon. The voter shall then announce his name and present
48 his ballot to the commissioner of his party, if there be one, who
49 shall hand the same to another election officer, who shall deposit
50 it in the ballot box; *providea*, that said ballot is the official one
51 properly signed. The poll clerks shall then enter the name of the
52 voter on their respective poll books, and number the same in the
53 order in which the ballot was cast. When the voter has voted, he
54 shall retire immediately from the election room, and beyond the
55 sixty foot limit thereof, and shall not return, except by permis-
56 sion of the commissioner.

57 If any person is unable to sign the affirmation book, by
58 physical disability or otherwise, the same shall be signed for him
59 by one of the poll clerks, and such person shall make his mark.

Sec. 14. When the polls are closed, the commissioners of
2 election and the poll clerks shall proceed to ascertain the result of
3 the election as follows:

4 *First.* All ballots remaining not voted shall be immediately
5 destroyed by burning or otherwise, and before the ballot box is
6 opened.

7 *Second.* The commissioners and clerks shall ascertain from
8 the party affirmation book, and set down therein, the total number
9 of ballots of each party cast.

10 *Third.* The ballot box shall be opened and one of the com-
11 missioners shall take therefrom one ballot at a time, in the presence
12 of all the other officers, and shall announce what political party's
13 ballot it is, and shall read therefrom the result of the vote on such
14 ballot for each office, and hand the ballot to another of said com-
15 missioners differing in politics from himself, who, if satisfied
16 that it is correctly read, shall string the same on a thread. The
17 ballots of each party shall be strung on separate threads. Each
18 poll clerk shall keep an accurate tally of the contents of each
19 ballot of each party on tally papers, which shall be provided for
20 the purpose, so as to show the number of votes received by every

21 person for any office. The ballots shall be counted as they are
 22 strung upon the thread, and whenever the number counted for
 23 any party shall equal the number of votes entered upon the affirma-
 24 tion book of that party, any other ballot of such party found in
 25 the ballot box shall be immediately destroyed by fire or other-
 26 wise, without unfolding the same, or allowing any one to examine
 27 or know the contents thereof.

28 *Fourth.* As soon as the results at such precinct are ascer-
 29 tained, the commissioners and clerks shall make out and sign two
 30 certificates for each party represented of the vote for all candi-
 31 dates of such party, in the following form:

32 *"Certificate of Result forParty Candidates.*

33 "We, the undersigned, commissioners and poll clerks of the
 34 primary election held at precinct No.....of.....district of
 35 county, W. Va., on the day of, 19....,
 36 do hereby certify that, having been first duly sworn, we have
 37 carefully and impartially ascertained the result of said election
 38 at said precinct for the candidates on the official ballot of the
 39party, and the same is as follows:

40 "For the office of governor, A. B. received.....votes.

41 "For the office of governor, E. F. received.....votes.

42 "For the office of governor, G. H. received.....votes."

43 (And so on as to each office for which any candidate was
 44 voted for, stating in words and figures the number of votes cast
 45 for each candidate.)

46 "Given under our hands this day of, 19....

47 ".....

48 "....."

49 The two certificates for each party shall then be sealed, each
 50 in a separate envelope, furnished for the purpose, and all ballots
 51 voted for candidates of each party shall be sealed up in separate
 52 envelopes, and the commissioners and clerks shall each sign his
 53 name across the seals.

Sec. 15. It shall be the duty of the board of primary ballot
 2 commissioners to appoint one of the commissioners of election at
 3 each precinct of the county to attend at the offices of the clerks
 4 of the circuit and county courts at least three days before each
 5 primary election, to receive the ballots, ballot box, poll books and
 6 all other supplies and material for conducting the election at his

7 precinct, as provided in this act; and the said clerks shall deliver
8 to such commissioner the ballots, ballot box, poll books and other
9 supplies required to be furnished by this act for conducting the
10 election at such precinct, and take from him receipts for same,
11 which shall be filed in their respective offices. It shall be the
12 duty of such commissioner to attend at said clerk's office and to
13 receive the said ballots and all other election supplies used in
14 conducting the election at his precinct, and to deliver the same,
15 with the seal of all sealed packages unbroken, at his election pre-
16 cinct, in time to open the election. Said commissioner shall
17 receive the per diem and mileage allowed by law for this service.

18 In case any commissioner of election so appointed shall fail
19 to appear at the offices of the clerks of said county and circuit
20 courts by the close of the second day prior to any election, as re-
21 quired by this section, the board of ballot commissioners, or the
22 chairman thereof, shall forthwith dispatch a special messenger
23 to his precinct with the ballots, poll books, ballot box and other
24 supplies for such precinct. Such messenger shall be allowed two
25 dollars for his time, and five cents per mile for the distance neces-
26 sary to be traveled by him, and shall promptly report to the clerk
27 of the circuit court and file with him receipts of the person to
28 whom he delivered such ballots and other supplies, and his affi-
29 davit, stating when and to whom he delivered them.

Sec. 16. If by any accident or casualty the ballot boxes,
2 poll books or any of the other supplies delivered to a commis-
3 sioner of election or to any messenger shall be lost or destroyed,
4 it shall be the duty of such commissioner or messenger to report
5 the loss forthwith to the board of ballot commissioners, or the
6 clerk of the court from whom the same were obtained, and make
7 affidavit of the circumstances of the loss; whereupon such board or
8 clerk shall at once send a new supply by messenger, as provided
9 in other cases.

Sec. 17. It shall be the duty of the commissioner of elec-
2 tion at each precinct who was appointed to attend at the offices
3 of the clerks of the county and circuit courts, respectively, and re-
4 ceive the ballot boxes, poll books and other supplies for his pre-
5 cinct, without delay to return to the clerk of the county court
6 the ballot boxes and the several packages of ballots, poll books,
7 tally sheets and certificates, and all other returns of election, ex-
8 cept the packages addressed to the clerk of the circuit court,

9 which shall contain one poll book, one tally sheet, and one certifi-
 10 cate of each political party, which package he shall deliver to
 11 such clerk. If, for any good reason, such commissioner cannot
 12 act, one of the other commissioners shall be selected by them to
 13 discharge said duty.

Sec. 18. When any such election is held in a county or
 2 district, the county court sitting as a board of canvassers shall
 3 meet at the court house thereof on Friday next succeeding any
 4 general primary election, and publicly, carefully and impartially
 5 ascertain the result of such election in the county and in the
 6 district, and election precincts thereof, and cause to be prepared
 7 and recorded in the primary election precinct record book, a
 8 table or tables which shall show as to each candidate of each
 9 political party for each office, the number of votes cast for him
 10 at each precinct, and the total number thereof cast in the entire
 11 county.

12 The board shall then make up and enter in said record book
 13 a certificate for each political party, showing as to each candidate
 14 for each political party for each office, the total number of votes,
 15 (in words and also in figures) cast for him in the entire county,
 16 the number of votes received by all the candidates of such party in
 17 such district, which shall be in the following form:

18 "The board of canvassers of the county of, state
 19 of West Virginia, having carefully and impartially examined the
 20 returns of the primary election held in said county on the
 21 day of, 19 , do hereby certify that in said
 22 county or district at said election, on the official ballot of the
 23 party for the office of, A. B. received
 24 (.) votes; C. D. received
 25 (.) votes."

26 And so on for each particular office for each political
 27 party according to the truth.

28 When the certificates are all entered, the report shall be
 29 signed by the members of the board or a majority thereof. Said
 30 members shall also sign separate certificates of the result of said
 31 election, within the county, for each of the offices to be filled by
 32 each political party, as provided by the next section.

Sec. 19. The certificates of the board of canvassers made
 2 pursuant to the preceding section shall be by them disposed of
 3 as follows: One of the certificates showing the votes received by

4 each candidate of each party for each office to be filled by the
5 voters of a political division greater than a county, including
6 state committeemen, shall be filed with the secretary of state,
7 and by him preserved in his office, and a copy thereof filed in the
8 office of the clerk of the circuit court of the county of such board
9 to be preserved by such clerk, and which shall be open to public
10 inspection. One certificate showing the votes received by each
11 candidate of each party for each office to be filled by the voters
12 of the county or magisterial district within such county, shall be
13 filed with the clerk of the circuit court, and by him preserved in
14 his office. If requested, the board of canvassers will furnish to
15 the county chairman of each political party a certificate, showing
16 the number of votes received by all the candidates of such party in
17 the county or magisterial district therein.

18 The secretary of state shall certify, under the seal of the state,
19 to the clerk of the circuit court of each county in which a candi-
20 date is to be voted for, the name of the candidate of each politi-
21 cal party receiving the highest number of votes in the political
22 division in which he is a candidate, and who is entitled to have
23 his name placed on the official ballot in the general election as
24 the nominee of his party for such office.

Sec. 20. If any vacancy occurs in the nominees of any
2 party after the holding of any primary election, the same shall be
3 filled by the executive committee of that party, in the municipal-
4 ity, county, district or state, as the case may be.

5 In case of a tie for the nomination for any office, the re-
6 spective committee shall choose by lot which of the two tying
7 shall be the nominee.

Sec. 21. Each candidate to be voted for at a general primary
2 election, except candidates for President of the United States, for
3 membership of committees and delegates to national conventions,
4 shall pay as hereinafter provided, the following sums, respectively:
5 candidates for nomination for United States senator, five hundred
6 dollars; for governor and all other state offices, the sum of three
7 hundred dollars; candidates for member of the United States house
8 of representatives, the sum of three hundred dollars; candidates
9 for members of the state senate the sum of twenty dollars; candi-
9-a dates for county offices as follows: county clerk, circuit
10 clerk, sheriff, assessor, and prosecuting attorney the sum
11 of twenty-five dollars each; for all other county offices the sum

12 of ten dollars each; for members of the house of delegates the sum
13-16 of ten dollars.

17 The candidates for all offices to be filled by the voters of a
18 political division greater than a county shall, at the time of filing
19 with the secretary of state the nomination, petition and affidavits
20 as required by this chapter, also file a certified check for the
21 amount of their respective assessments, and take receipts for same.

22 The candidates for nomination for all offices to be filled by
23 the voters of a county or district therein, shall pay to the sheriff
24 of the county the amount of their assessments, required by this
25 section, and take from such sheriff duplicate receipts, one of which
26 shall be filed with the chairman of the board of ballot commis-
27 sioners.

28 The secretary of state shall apportion the amounts so paid to
29 him hereunder among the several counties entitled thereto, and
30 remit the same to the sheriffs of such counties, within twenty days
31 after the time for filing nomination announcements closes.

32 The sums so paid under the provisions of this section shall
33 be applied in the several counties towards defraying the expenses
34 of the general primary election, and the balance, if any, shall be
35 used for county purposes.

36 In the case of municipalities, said fee shall be paid to the
37 municipal treasurer, or corresponding officer, and a receipt issued
38 by him, in triplicate.

Sec. 22. The action of the board of canvassers, or of any
2 political committee, at any primary election, may be appealed from
3 by any candidate thereat, to the circuit court of the county. All
4 such contests shall be governed by the provisions of the code of
5 West Virginia, so far as the same are applicable, as found in chapter
6 six thereof.

Sec. 23. The expense of said general primary election and
2 the per diem of election officers shall be paid by the county court
3 the same as other election expenses are now provided for and
4 paid by general law; *provided*, that no compensation to any mem-
5 ber of any executive committee shall be included in said expense.

6 Candidates for public office may be nominated otherwise than
7 by direct primary election. In such case, a certificate shall be
8 signed by voters resident within the state, district or political
9 division for which the candidate is presented, to a number equal to
10 five per cent. of the entire vote cast at the last preceding election
11 in the state, circuit, district, county or other division for which

12 the nomination is made. No voter signing such certificate shall be
13 counted unless his residence and postoffice address be designated.
14 Such certificates shall state the name and residence of each of such
15 candidates; that he is legally qualified to hold such office; that
16 the subscribers desire and are legally qualified to vote for such
17 candidates; and may designate, by not more than five words, a
18 brief name of the party or principle which said candidates repre-
19 sent. No person shall be legally qualified to sign such a certificate
20 who participated in a direct primary election held in accordance
21 with this act. Every person not legally qualified to sign such a
22 certificate and who subscribes his name to the same shall be
23 guilty of a misdemeanor and fined not less than ten dollars nor
24 more than fifty dollars, and a justice of the peace shall have
25 jurisdiction in such case.

26 Such certificates shall not be circulated to be signed by
27 voters until after the direct primary election provided for in this
28 act and such certificates shall be filed within the time and with
29 the same officers as is prescribed by law for the making up of the
30 official ballot and all candidates nominated by the signing of such
31 certificates shall pay the sums as provided for in section twenty-
32 two of this act and unless such sums have been so paid no candi-
33 date so nominated shall be eligible to hold the office for which he is
34 a candidate. The money so paid shall be used for county purposes.

Sec. 24. All provisions of chapters three and five of the
2 code of West Virginia, so far as the same are not in conflict with
3 and are not modified by this act, shall, so far as they are ger-
4 mane, apply to and are hereby made applicable to the primary
5 elections.

Sec. 25. Any primary election officer, members of any po-
2 litical committee or other person, who shall wilfully fail and
3 neglect to perform any duty by this act required of him, or who
4 shall tamper with, change or destroy any ballot, return or certifi-
5 cate of election, or delay the return of ballot boxes, ballots and
6 other election returns to the county clerk, or wilfully do any other
7 act, the object of which is to destroy any ballot, or the record of
8 any canvass of votes, or in any way wilfully interfere with the
9 utmost honesty and fairness in conducting any such primary elec-
10 tion, or in making nominations thereat, and any voter who shall
11 cast more than one primary election ballot on the same day, or
12 who shall vote under a name other than that by which he is gener-
13 ally known, who shall make any false oath, affirmation or affidavit

14 respecting the right of himself or any other person to vote, shall
15 be guilty of a felony, and upon conviction thereof, shall be confined
16 in the penitentiary not less than one year nor more than three years.

Sec. 26. No candidate shall be considered a nominee nor
2 his name be placed on the regular election ballot by the ballot
3 commissioners until said candidate has filed the affidavit required
4 by the corrupt practices act as to the amount of expenses as pro-
5 vided by said act.

Sec. 27. The state executive committee of each party may
2 make such rules for the government of such party, not incon-
3 sistent with law, as may be deemed expedient; and it may also
4 revoke, or alter, or amend, in any manner not inconsistent with
5 law, any present or future rules of such party: and all acts of
6 such state or other committees may be reviewable by the courts.

7 National committeemen shall be elected by the state commit-
8 tee of each respective party, unless the rules of the national party
9 otherwise provide, in which case they shall be elected in the man-
10 ner provided by the rules of the national party; and all state
11 committeemen shall be elected by senatorial districts.

12 Vacancies happening at any time in the office of national
13 committeemen shall be filled by the state committee of the re-
14 spective parties, unless the rules of the national party otherwise
15 provide; and vacancies in all other committees shall be filled as
16 provided in section three of this act.

17 Nothing in this chapter contained shall be so construed as to
18 prohibit any political committee from appointing any sub-com-
19 mittee of its own members, or other committee charged with any
20 duty named in the order or resolution providing for the selection
21 of said sub-committee; nor the appointment of any campaign
22 or central committee to have charge of the administrative or
23 executive work of the political campaign; but no such central
24 committee or sub-committee shall be competent to discharge any
25 duties devolved by this chapter on any political party committee,
26 or the members thereof.

Sec. 28. Municipal executive committees shall exercise
2 similar functions and be governed by the same laws in regard to
3 primary elections as county executive committees in regard to
4 general primary elections, so far as the same may be applicable.
5 All expenses of conducting such primary election shall be paid
6 by the municipality.

7 The provisions of this act referring more specifically to
8 primary election shall, so far as the same can be applied, and not
9 otherwise provided, govern the conduct of municipal primary elec-
10 tions.

 Sec. 29. Between the first and fifteenth day of August in
2 each year in which a president of the United States is to be
3 elected, each political party shall at some convenient place to be
4 designated by the chairman of the state committee thereof, hold a
5 meeting for the purpose, and shall formulate and promulgate a
6 state platform, and select presidential electors for the state at large,
7 and each congressional district. And if at the said election a judge
8 or judges of the supreme court of appeals is or are to be elected,
9 the candidates of such party for such judge shall be nominated,
10 and the name of such candidates for such offices of judge, and elec-
11 tor shall be certified by the officers of said convention to the
12 secretary of state.

13 Candidates for judges of the circuit court of the several cir-
14 cuits, as well as judges of the intermediate and criminal courts of
15 those counties having such courts, shall also be nominated by simi-
16 lar conventions in their respective circuits and counties, and the
17 results similarly certified to the clerks of the circuit courts of the
18 counties composing such circuits and counties having such inter-
19 mediate and criminal courts.

20 The respective executive committees of each party shall have
21 the right and power to adopt such rules as they shall see fit to
22 govern the holding of such conventions, and the number and selec-
23 tion of delegates to the same.

24 Any nominations so made shall have the same force and ef-
25 fect as if made by a primary.

 Sec. 30. Of the candidates for each office respectively, in-
2 cluding that of party committeemen and delegates and alternates
3 to national conventions, the one receiving a plurality of the votes
4 cast for the candidate for that office by his political party in the
5 territory for which he is a candidate, shall be declared the nominee
6 of his party for the office for which he was a candidate.

 Sec. 31. In presidential election years, in addition to the
2 candidates hereinbefore required to be nominated at the general
3 primary election, the qualified voters of each political party shall
4 have the opportunity of voting for their choice among those
5 aspiring to be the candidates of their respective parties for the

6 President of the United States. The names of such aspirants shall
 7 be printed on the official primary election ballot of their respective
 8 parties, as provided in section twelve of this chapter, upon the fil-
 9 ing with the secretary of state the announcement as provided in
 10 section eight of this act, and the ballot shall be marked and the vote
 11 shall be counted, canvassed and returned under the same condi-
 12 tion as to names, certificates and other matters, as the names and
 13 certificates of the party aspirants for the party nomination for the
 14 office of governor.

15 Any person or persons who shall become 'a candidate for
 16 delegate or alternate to the national convention as herein provided
 17 shall file with his announcement, or include therein, a statement
 18 as to whether or not he will support the popular choice of such
 19 primary.

Sec. 32. All acts and parts of acts inconsistent and in con-
 2 flict with this act, are hereby repealed.

Senate Bill No. 106

AN ACT to amend and re-enact chapter twenty-two of the acts of one
 thousand nine hundred and eight, included in the code of one
 thousand nine hundred and thirteen, as sections eight-*b* I, eight-*b*
 II, eight-*b* III, eight-*b* IV, eight-*b* V, eight-*b* VI, eight-*b* VII,
 eight-*b* VIII, eight-*b* IX, eight-*b* X, eight-*b* XI, eight-*b* XII,
 eight-*b* XIII, eight-*b* XV, eight-*b* XVI, eight-*b* XVII, eight-*b*
 XVIII, eight-*b* XIX of chapter five; to prevent corrupt practices
 in elections, to limit the expenses of candidates and political
 committees, and to provide penalties for the violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. That at all primary elections for the nomination
 2 of candidates, and for the election of party committeemen, and at
 3 all other elections for public officers, (except elections for local
 4 officers in towns of less than five thousand population, and for
 5 school district officers). records of receipts and expenditures for
 6 political purposes shall be kept by or on behalf of all candidates;
 7 sworn statements of such receipts and expenditures shall be made
 8 and filed as public records by all candidates and by their political
 9 agents, representatives, or any person acting for or on behalf

10 of such candidate, and the treasurers of all political committees;
11 and such receipts and expenditures shall be subject to the regula-
12 tions and provisions of this act.

Sec. 2. (a) The term "election" shall apply to all primary
2 elections, to all other elections, general or special, by the legal
3 voters of this state or its sub-divisions, and to elections by the
4 legislature, or either house thereof.

5 (b) The term "candidate" shall apply to any person whose
6 name is printed on an official ballot for public office, and to
7 any person who has been proposed for nomination or election
8 to public office, and who either tacitly or expressly consents to
9 so be considered, except candidates for president and vice-presi-
10 dent of the United States, and presidential electors.

11 (c) The term "financial agent" shall apply to any person
11-a acting for and by himself or to any two or more natural per-
12 sons acting together or co-operating in a financial way to aid
13 or take part in the nomination or election of any candidate for
14 public office, or to aid or promote the success or defeat of any
15 political party or principle at any election, or any proposition
16 submitted to vote at a public election.

17 (d) The term "public office" shall apply to any elective
18 office provided for by the constitution or laws of the state of
19 West Virginia to which a salary or other compensation attaches.

Treasurer of Political Committee.

Sec. 3. Every political committee shall appoint and main-
2 tain a treasurer, to receive, keep and disburse all sums of money
3 which may be collected or received by such committee, or by any
4 of its members, for election expenses; and unless such treasurer
5 is first appointed and thereafter maintained, it shall be unlawful
6 for a political committee or any of its members to collect, receive
7 or disburse money for any such purpose. All money collected or
8 received by any political committee, or by any of its members, for
9 election expenses, shall be paid over to and made to pass through
10 the hands of the treasurer and shall be disbursed by him; and it
11 shall be unlawful for any political committee, or any of its mem-
12 bers, to disburse any money for election expenses unless such
13 money shall have been paid to and disbursed by the treasurer.

14 One person may be designated to act as treasurer for two or
15 more political committees and candidates.

Sec. 4. No person shall act as the treasurer of any political
2 committee or as financial agent for any candidate for any office to

3 be nominated or elected by the votes of the entire state, including
4 delegates and alternates at large to a national convention, and
5 candidates for president of the United States, unless a written
6 statement designating him as such treasurer or financial agent
7 shall be filed with the secretary of state, at least sixty days before
8 the election at which he is to act.

9 No person shall act as a treasurer of any political committee
10 or as financial agent for any candidate to be nominated or elected
11 by the votes of any political division less than the entire state or
12 greater than a county, including candidates for the state executive
13 committees and delegates to national conventions, unless a writ-
14 ten statement designating him as such treasurer or financial agent
15 is filed with the clerk of the county court of each county within
16 such political division at least sixty days before the election at
17 which he is to act.

18 No person shall act as treasurer of any political committee,
19 or as financial agent for any candidate to be nominated or elected
20 by the votes of a county or district therein, or the treasurer or
21 financial agent for a candidate for the nomination or election to
22 any other office not herein mentioned, unless a written statement
23 designating him to act as such treasurer or financial agent shall
24 be filed with the clerk of the county court at least sixty days be-
25 fore the election at which he is to act.

26 No person shall act as treasurer of any city political commit-
27 tee, or financial agent for any candidate to be nominated or elected
28 by the votes of a city, unless written notice of such designation
29 is filed with the clerk or recorder of such city at least twenty
30 days before the election at which he is to act.

Accounts and Vouchers.

Sec. 5. Every candidate, financial agent and the treasurer
2 of every political committee, shall keep detailed accounts of all
3 money, or its equivalent, received by them, and of all expenditures,
4 disbursements made, and liabilities incurred by such candidate,
5 agent or political committee for political purposes, or by any
6 of the officers or members of such committee, or any person acting
7 under its authority or on its behalf.

Sworn Statements.

Sec. 6. Not less than seven nor more than fifteen days be-

2 fore each primary or other election, and again within thirty days
3 after each primary or other election, every candidate for public
4 office, (except in towns of less than five thousand population),
5 and every financial agent, and the treasurer of every political
6 committee, shall file with the officers hereinafter prescribed a de-
7 tailed, itemized statement subscribed and sworn to before an
8 officer authorized to administer oaths, setting forth all financial
9 transactions in connection with such primary or other election.
10 Such statements shall show each and every sum of money or
11 other thing of value contributed or advanced; the name of each
12 person, firm, association or committee by whom it was contributed
13 or advanced; the amount and purpose of every expenditure made
14 or liability incurred, and the name of each person, firm, associa-
15 tion or committee to whom such expenditure was made or liability
16 incurred, with dates of each transaction.

17 Any unexpended balance remaining in the hands of the
18 treasurer of any political committee at the time of making the
19 statements herein provided for, shall be properly accounted for
20 in said statement and shall appear as a balance in the next fol-
21 lowing report of such treasurer or his successor in office.

22 Such sworn statements shall be filed with the secretary of
23 state by candidates for state and other offices to be nominated or
24 elected by the votes of a political division greater than a county;
25 with the clerk of the county court by candidates for offices to be
26 nominated or elected by the votes of a county or district therein,
27 and by all candidates for other offices not otherwise provided for,
28 and with the clerk or recorder of the city in the case of candidates
29 for city offices.

Blank Forms and Preservation of Statements.

Sec. 7. Blank forms of all financial statements required
2 under this act shall be prepared by the secretary of state, and
3 copies thereof, together with a copy of this act, shall be furnished
4 through the county clerk or otherwise, as the secretary of state
5 may deem expedient, to all treasurers of political committees, to
6 all political agents and to all candidates for nomination or elec-
7 tion to any office upon the filing of petitions or announcement
8 for nomination, and to all other persons required by law to file
9 such statements who apply therefor.

10 All statements filed in accordance with this act shall be re-

11 ceived, endorsed and filed by the secretary of state, county clerks
12 and city clerks or recorders.

13 All statements filed in accordance with the provisions of this
14 act shall be preserved for one year after the election to which they
15 relate.

Penalties for Failure to File Statements.

Sec. 8. Any candidate, financial agent or treasurer of a
2 political committee who shall fail to file a sworn, itemized state-
3 ment as above provided, within the time required, shall be guilty
4 of a misdemeanor and upon conviction shall be fined not less than
5 fifty dollars, or imprisoned in the county jail for not more than
6 six months, or both, at the discretion of the court.

7 Forty days after any such primary or other election, the sec-
8 retary of state, county clerk or city clerk or recorder, as the case
9 may be, shall give notice of any failure to file such statement by
10 any candidate, financial agent or treasurer of a political commit-
11 tee, to the prosecuting attorney of the county where such delin-
12 quent resides.

13 No candidate nominated at a primary election who has failed
14 to make a sworn statement as required by this act, shall have his
15 name placed on the official ballot for the ensuing election, unless
16 there has been filed by or on behalf of said candidate, or by his
17 financial agent, if any, the financial statement relating to nomina-
18 tions required by this act; and it shall be unlawful to issue a
19 commission or certificate of election or to administer the oath
20 of office to any person elected to any public office who has failed
21 to file a sworn statement as required by this act; and no such
22 person shall enter upon the duties of his office until he has filed
23 such statement, nor shall he receive any salary or emolument for
24 any period prior to the filing of such statement.

Restrictions on Contributions.

Sec. 9. No officer of any corporation, or agent or person on
2 behalf of such corporation, whether incorporated under the laws
3 of this or any other state, or foreign country, shall pay, give or
4 lend, or authorize to be paid, given or lent, any money or other
5 thing of value belonging to such corporations, to any candidate,
6 financial agent or political committee or other person, for the pay-
7 ment of any primary or other election expenses whatever. No
8-9 person shall solicit or receive such payment, contribution or other

10 thing from any corporation, officer or agent thereof, or other per-
11 son acting on behalf of such corporation.

Lawful Expenditures.

Sec. 10. No candidate, financial agent or treasurer of a
2 political committee, shall pay, give or lend, or agree to pay, give
3 or lend, either directly or indirectly, any money or other thing of
4 value for any election expenses, except for the following pur-
5 poses:

6 *First.* For rent, maintenance and furnishing of offices to be
7 used as political headquarters and for the payment of necessary
8 clerks, stenographers, typewriters, janitors and messengers actu-
9 ally employed therein.

10 *Second.* For printing and distributing books, pamphlets,
11 circulars and other printed matter relating to political issues
12 and candidates and painting, printing and posting signs, banners
13 and other advertisements.

14 *Third.* For renting and decorating halls for public meetings
15 and political conventions, for advertising public meetings, and
16 for the payment and transportation of speakers and musicians at
17 such meetings.

18 *Fourth.* For the necessary traveling and hotel expenses of can-
19 didates, political agents and committees, and for stationery, postage,
20 telegrams, telephone, express, freight and public messenger service.

21 *Fifth.* For preparing, circulating and filing petitions for
22 nomination of candidates.

23 *Sixth.* For examining the lists of registered voters, investi-
24 gating the right to vote of the persons listed therein, and con-
25 ducting proceedings to prevent unlawful registration or voting.

26 *Seventh.* For conveying infirm or disabled voters to and
27 from the polls.

28 Every liability incurred and payment made shall be at a rate
29 and for a total amount which is proper and reasonable and fairly
30 commensurate with the services rendered.

Limitation of Expenditures.

Sec. 11. No payment shall be made and no liability shall
2 be incurred by or on behalf of any candidate for office in this state
3 to aid in securing his nomination or election, or both, which shall
4 in the aggregate exceed the amounts herein provided for; that is to
5 say, candidates for United States senate or any state office, the

6 sum of seventy-five dollars for each county in the state for the
7 primary election, and a like amount for the general election;
8 candidates for members of the legislature, the amount of one
9 hundred and twenty-five dollars in each county in which said
10 candidate is voted for, for the primary election, and a like
11 amount for the general election; for members of the United
12 States house of representatives, the sum of seventy-five dollars
13 for each county in the district at the primary election, and a
14 like amount for the general election; for any county office a
15 sum not to exceed two hundred dollars in each county at the
16 primary election, and a like amount for the general election;
17 and any other office, not hereinbefore mentioned, a sum not to
18 exceed fifty dollars in the political division in which such per-
19 son is candidate in the primary election, and a like amount for
20 the general election.

21 Any candidate may delegate to a financial agent or a politi-
22 cal committee, in writing duly subscribed by him, the expenditure
23 of any portion of the total expenses authorized to be incurred by
24 him or on his behalf; but the aggregate of all expenses made and
25 incurred by such candidate, by any political agent on his behalf
26 and by any political committee on his behalf, shall not exceed the
27 amounts hereinbefore provided.

27-a No payments shall be made and no liability shall be incurred
28 by any financial agent or political committee which shall exceed
29 in the aggregate the sum of the amounts theretofore delegated
30 to such committee by the candidate in writing as herein provided.

Corrupt Practices.

Sec. 12. The following persons shall be deemed guilty of
2 corrupt practices, and upon conviction shall be punished in ac-
3 cordance with the provisions of this act:

4 (a) Any person, other than a financial agent or a member
5 of a political committee, duly appointed and designated as pro-
6 vided in this act, who shall solicit from any candidate for nomi-
7 nation or election to any public office, any money, gift, contribu-
8 tion, emolument, or other valuable thing, for the support, assist-
9 ance, benefit or expenses of any person or persons, club, company,
10 organization, religious body, society, association, or for any other
11 purposes except as herein provided, or for the expenses of any
12 primary or other election campaign.

13 (b) Any person who shall demand, solicit, ask or invite

14 any candidate to make any contribution or incur any obligation
15 to any religious, charitable or fraternal cause, or organization
16 other than political committees duly designated under the pro-
17 visions of this act, or to buy tickets to any entertainments or ball,
18 or to subscribe or pay for space in any book, program, periodical,
19 newspaper or other publication; or any candidate who shall make
20 or promise any such payment or contribution with the apparent
21 hope or intent to influence the result of any election; *provided*,
22 that this paragraph shall not apply to the solicitation of any
23 business advertisements in a periodical in which such candidate
24 regularly advertised prior to his candidacy, nor to ordinary busi-
25 ness advertising, nor to the regular and normal payments to any
26 religious, charitable or other organization to which he may have
27 been a contributor for more than six months before his candidacy.

28 (c) Any person who shall, directly or indirectly, by himself
29 or by any other person on his behalf, make use of, or threaten to
30 make use of, any force, violence or restraint, or inflict, or threaten
31 to inflict any damage, harm or loss, upon or against any person,
32 or by any other means attempt to intimidate or exert any undue
33 influence, in order to induce such person to vote or refrain from
34 voting, or on account of such person having voted or refrained
35 from voting, at any election, or who shall by abduction, duress or
36 any fraudulent device or contrivance, impede or prevent the free
37 exercise of the suffrage by any elector, or shall thereby compel,
38 induce or prevail upon any elector either to vote or refrain from
39 voting for or against any particular candidate or measure.

40 (d) Any person who, being an employer, or acting for or on
41 behalf of any employer, shall give any notice or information to
42 his employees, containing any threat, either express or implied,
43 intended or calculated to influence the political views or actions of
44 his workmen or employees.

45 (e) Any person who shall, knowingly, make or publish, or
46 cause to be made or published, any false statement in regard to
47 any candidate, which statement is intended or tends to affect any
48 voting at any election whatever.

49 (f) Any person who shall pay any owner, publisher, editor
50 or employee, or any newspaper or other periodical to advocate or
51 oppose editorially, any candidate for nomination or election, or
52 any political party, or any measure to be submitted to the vote
53 of the people; any owner, publisher, editor, or employee who shall
54 solicit or accept such payment.

Practices Forbidden.

Sec. 13. (a) No person shall publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, or other publication tending to influence voting at any election.

(b) No owner, publisher, editor or employee of a newspaper or other periodical, shall insert, either in its advertising or reading columns any matter, paid for or to be paid for, which tends to influence directly or indirectly, the voting at any election whatever, unless it is distinctly designated as a paid advertisement, and states the name of the person authorizing its publication and the candidate in whose behalf it is published.

(c) No person shall, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political sub-division thereof, solicit orally or by written communication delivered therein, in any other manner, any contribution of money or other thing of value for any party or political purpose, whatever, from any postmaster or other officer or employee of the federal government, or officer or employee of the state or a political sub-division thereof. No officer, agent, clerk, or employee of the federal government, or of this state or any political sub-division thereof, who may have charge or control of any building, office or room, occupied for any official purpose, shall permit any person to enter the same for the purpose of therein soliciting or delivering written solicitations for, or receiving from, or giving notice of any political assessments to any officer or employee of the state, or a political sub-division thereof.

Penalties.

Sec. 14. (a) Any person who shall be guilty of the corrupt practice under sections twelve and thirteen of this act, shall, on conviction, be disqualified from voting or from holding any office or employment during a period of five years from the date of conviction, and if elected to or occupying any public office or employment, such office or employment shall be vacated from the date of conviction. Any person convicted of a second or subsequent offense hereunder shall be forever disqualified from voting or holding any public office.

(b) Any person who shall violate any of the other provisions of this act, for the violation of which no other penalty is provided, shall, on conviction be disqualified from voting or hold-

13 ing any public office, or employment, during a period of three
14 years from the date of conviction, and if elected to, or occupying
15 any public office or employment, such office or employment shall
16 be vacated from the date of conviction. Any person convicted of
17 a second or subsequent offense hereunder shall be disqualified
18 from voting or holding any public office in this state for a period
19 of twenty-one years.

20 (c) Any corporation which shall violate any provision of
21 this act, or shall reimburse or compensate in any manner what-
22 ever any person who shall have given, loaned or promised any
23 money or other thing of value in violation of this act, on convic-
24 tion thereof, for the first offense, shall be fined not less than one
25 thousand dollars nor more than ten thousand dollars; and upon
26 conviction of any second or subsequent offense, if organized under
27 the laws of this state, shall forfeit its charter and all rights, privi-
28 leges and immunities thereunder, or if organized under the laws
29 of another state or country, shall forfeit all right to carry on any
30 business in this state.

31 (d) Any officer, agent or employee of any corporation who
32 may on behalf of himself or such corporation do any of the things
33 prohibited by this act, shall on conviction thereof, be fined not
34 to exceed five hundred dollars, and be imprisoned in the county
35 jail not to exceed one year; and shall be disqualified from voting
36 or holding office for a period of three years.

37 (e) Any voter who shall, before or during any election,
38 directly or indirectly by himself, or by any other person on his
39 behalf, solicit, demand, receive, agree or contract for any money,
40 gift, loan, or valuable considerations, office, place or employment,
41 or solicit any endorsement on a note or other paper, public or pri-
42 vate, for himself or for any other person, for voting or agreeing
43 to vote, or for voting for any person or candidate or object, or
44 agreeing to refrain therefrom, or from refraining or agreeing to
45 refrain from voting at any election; or any person who shall,
46 after any election, directly or indirectly by himself, or any other
47 person on his behalf, solicit, demand or receive any money or
48 valuable consideration on account of any person having voted
49 or refrained from voting, or having induced any other person
50 to vote or refrain from voting at any election, shall, on convic-
51 tion, be disqualified from voting or holding any public office in
52 this state for a period of five years from the date of his convic-
53 tion; but if any such voter or person mentioned in this sub-sec-

54 tion shall testify and speak the truth on behalf of the state in
55 any prosecution against the giver or promiser, he shall not be
56 prosecuted for any offense under this sub-section.

57 (f) Any person who shall directly or indirectly, by him-
58 self or by other person on his behalf, give, lend, or agree to give
59 or lend, or offer, promise, or promise to procure or endeavor to
60 procure any money or valuable consideration, or any place or em-
61 ployment, public or private, to or for any voter, or to or for any
62 person on behalf of any voter, or to or for any person in order
62-a to induce any voter to vote or refrain from voting, or to vote
63 for any particular person or candidate, or object, or to refrain
64 therefrom; or shall do any such act as aforesaid on account of
65 such voter having voted or refrained from voting at an election,
66 or having voted for any particular person or candidate or ob-
67 ject, or refraining therefrom, shall be guilty of a misdemeanor,
68 and upon conviction thereof shall be fined not less than twenty-
69 five dollars nor more than five hundred dollars and may be im-
70 prisoned not to exceed ninety days for every such offense; and in
71 addition thereto shall be disqualified from voting or holding office
72 in this state for a period of five years from the date of his convic-
72-a tion.

72-b (g) Any person who shall advance or pay or contribute, or
72-c cause to be paid or contributed, any money or other thing of
72-d value to or for the use of any other person with the intent that
72-e such money or other thing of value, or any part thereof, shall be
72-f expended in bribery for any primary or other election, or who
72-g shall knowingly pay or cause to be paid any money or other
73 thing of value, shall, on conviction thereof, be disqualified from
74 voting or holding any public office in this state for a period of five
75 years from the date of his conviction.

76 (h) Any person or persons, firm, corporation, association,
77 or organization of persons or the individual members thereof, who,
78 by themselves, their officers or agents, shall solicit, demand or re-
79 quire of any candidate at or before any primary or final election
80-81 a promise or pledge directly or indirectly, to vote for or against
82 any particular candidate or measure, shall be guilty of a misde-
83 meanor and upon conviction thereof shall be fined not to exceed
84 five hundred dollars. Any candidate from whom has been exacted
85 any such promise or pledge, shall be disqualified from holding the
86 office to which he may be nominated or elected.

Judicial Inquiry.

Sec. 15. At any time within sixty days after any primary
2 or other election, the attorney general, any prosecuting attorney,
3 any candidate voted for at such election, or any one hundred
4 qualified voters, upon giving bond to indemnify the person whose
5 election is contested, from all costs, attorneys' fee and expenses
6 incurred by him in defending his title to office in the event that
7 such person's title to his office is upheld, may present to any cir-
8 cuit judge a petition setting forth under oath, upon information
9 or personal knowledge, that corrupt and illegal practices contrary
10 to the provisions of this act, specifying the same, were committed
11 in connection with such election, naming any candidate as de-
12 fendant, and praying for a judicial inquiry into the alleged facts.

13 If such judge shall be of the opinion that the interests of
14 public justice require such a judicial inquiry, he shall authorize
15 such inquiry.

16 Such petition shall be tried without a jury; the petitioner or
17 petitioners, and all candidates at such election, shall be entitled
18 to appear and be heard as parties; and the court shall have power
19 to compel the attendance of witnesses and the production of
20 books and papers which are relevant and material, and all the evi-
22 dence taken shall be properly certified and made a part of the
23 record of such proceeding.

Certificate of Findings.

Sec. 16. In the case of a judicial inquiry into corrupt and
2 illegal practices connected with the election of presidential elect-
3 ors, a United States senator or a member of the United States
4 house of representatives, the evidence and the opinion and deter-
5 mination of the court shall be certified to the governor, who shall
6 transmit the same to the proper authorities of the United States
6-a government for such action as said authorities may deem proper.

7 In the case of a judicial inquiry into corrupt and illegal
8 practices connected with the election of any officer of the exec-
9 utive department of this state, or of any member of the legisla-
10 ture, the evidence and the opinion and determination of the court
10-a shall be certified to the speaker of the house of delegates; or, (in
10-b a case referring to a member of the state senate), to the presi-
10-c dent of the senate, for such action as may be deemed proper. In
11 case of such judicial inquiry as to a circuit judge such proceed-

12 ing shall be heard and determined by the circuit court of any
13 adjoining circuit.

14 In the case of a judicial inquiry into corrupt and illegal
15 practices connected with the election of any other public officer,
16 the trial court shall certify to the governor his decision and judg-
17 ment with reference to the existence of corrupt and illegal prac-
18 tices, the effect of any such practices on the validity of the elec-
19 tion, and the guilt or innocence of any candidate or his political
20 agent. If any such court shall decide that any successful candi-
21 date so petitioned against, in person or through his political
22 agent, had committed corrupt or illegal practices, sufficient to
23 materially influence the result, the election of such candidate shall
24 be void. In case of any election except a primary election so held
25 to be void, the governor shall, within twenty days after the re-
26 ceipt of such decision, issue a writ for a new election, to be held
27 within forty days after the issuance of such writ.

Privilege of Witnesses.

Sec. 17. At any trial, inquiry or hearing under the provis-
2 ions of this act, no person shall be excused from attending and
3 testifying, or from producing books, papers, or other documents
4 before the court upon the ground, or for the reason, that the tes-
5 timony or evidence, documentary or otherwise, required of him,
6 may tend to incriminate him, or subject him to a penalty or for-
7 feiture, but no person shall be prosecuted or subjected to any pen-
8 alty or forfeiture except forfeiture of nomination or election to
9 office for or on account of any transaction, matter or thing concern-
10 ing which he may so testify, or produce evidence against him
11 in any criminal investigation or proceeding, except in an action
12 for perjury in giving such testimony.

Punitive Costs.

Sec. 18. In the decision of any court for a judicial inquiry
2 into corrupt and illegal practices at any election, costs may be
3 awarded against the losing party; and the trial court shall have
4 power to award additional punitive costs against the petitioner
5 or petitioners, if it shall find that the allegations of the petition
6 are materially untrue, and that the petition was brought from
7 vexatious or malicious motives.

Appeals.

Sec. 19. Appeals except in the case of presidential electors,

2 United States senators, or a member of the United States house of
 2-a representatives, a member of the legislature and the executive
 2-b officers of the state may be taken from the determination in
 2-c such judicial inquiry in the same manner as appeals may be tak-
 3 en as provided by law in civil actions; but the party appealing
 4 shall in no case be entitled to or obtain a stay of proceedings.
 5 No injunction shall issue in any such judicial inquiry suspend-
 6 ing or staying any procedure therein or connected therewith, ex-
 7 cept upon application to the court or the presiding judges there-
 8 of, upon notice to all parties and after hearing.

Sec. 20. All acts and parts of acts in conflict with the pro-
 2 visions of this act, are hereby repealed.

Senate Bill No. 332

AN ACT to amend and re-enact sections 98-a-I, 98-a-III, 98-a-IV,
 98-a-VI, 98-a-VII and 98-a-XI of chapter three of the code of
 West Virginia, edition of one thousand nine hundred and thirteen,
 (being serial sections one hundred and twenty-one, one hundred
 and twenty-three, one hundred and twenty-four, one hundred
 and twenty-six, one hundred and twenty-seven and one hundred
 and thirty-one of said code,) relating to the registration of voters.

Be it enacted by the Legislature of West Virginia:

That sections 98-a-I, 98-a-III, 98-a-IV, 98-a-VI, 98-a-VII, 98-a-XI
 of chapter three of the code of West Virginia, edition of one thousand
 nine hundred and thirteen, (being serial sections one hundred and
 twenty-one, one hundred and twenty-three, one hundred and twenty-
 four, one hundred and twenty-six, one hundred and twenty-seven
 and one hundred and thirty-one of said code), relating to the regis-
 tration of voters, be amended and re-enacted so as to read as follows:

Section 98-a-I. The county court of each county in this state
 2 shall hold a regular or special session at the court house of their
 3 county on the first Monday in March next before the election in
 4 the year in which a President of the United States is to be elected,
 5 and in all other years on the first Monday in May next before the
 6 election, and shall then appoint for each voting precinct in their
 7 county two competent persons as registrars, one each from the po-
 8 litical parties which, at the last preceding election, cast the high-

9 est number of votes in the county in which the election is to be
10 held. But, if at any time during said session, the county execu-
11 tive committee of either political party from which said regis-
12-21 trars are to be selected. through its chairman or secretary, shall
22 present to the court, or shall before any such appointments are
23 made, at any time file in the office of the clerk of the county court
24 of said county, a writing signed by the chairman of said committee,
25 on their behalf, requesting the appointment of a qualified voter of
26 their political party, and who shall appear to be competent to said
27 court, the court shall appoint the person named in such writing as
28 such registrar; or, if the court reject any one so recommended, it
29 shall notify the chairman of the committee of said rejection, and
30 such chairman shall recommend another to be so appointed, until
31 a competent person is accepted by the court. Every writing so
32 presented shall be filed, preserved and kept by the clerk of said
33 court in his office. And if it shall appear that said writing was a
34 forgery, and that it was forged by the person presenting the same
35 to the court, knowing it to be a forgery, upon conviction thereof
36 such person shall be confined in the penitentiary not less than one
37 nor more than five years; or, at the discretion of the court, he may
38 be fined not less than one hundred dollars, nor more than five hun-
39 dred dollars, and be confined in the county jail not less than three
40 nor more than six months. No person shall be eligible to appoint-
41 ment as registrar, or in any way act as such, who has been convicted
42 of a felony, or who holds any elective or appointive political office
43 under the laws of the state of West Virginia, or the United States,
44 or who is not a qualified voter in the precinct for which he is ap-
45 pointed, who cannot read or write the English language, or who is
46-47 a candidate to be voted for at such election; *provided*, that if in
48 any precinct there should not be a competent person in the opin-
49 ion of the chairman of the executive committee, or the county
50 court, the chairman of said committee may recommend some com-
51 petent voter of said county from some other precinct therein, to
52 act as such registrar. If any such registrar shall fail or refuse to
53 serve, the vacancy shall be filled either by the county court or by
54 the clerk thereof, in vacation, in the manner hereinbefore provided
55-56 for the appointment of registrars, and such clerk shall forthwith
57 notify such party of his appointment as such registrar, and record
58 such appointment in the minute book of said county court. If no
59 appointment is made to fill such vacancy, or if either of such reg-
60 istrars fail or refuse to act, it shall be lawful for the other registrar

61 to register the voters in such precinct and discharge his duties here-
62 under. Said registrars shall, before entering upon the discharge of
63 their duties, take an oath to support the constitution of the United
64 States, the constitution of West Virginia, and to perform the du-
65 ties of their office to the best of their ability, and that they will
66 support the nominees of the party for which they are respectively
67 appointed. Said oath shall be filed in the office of the clerk of the
68 county court.

• Sec. 98-a-III. The clerk of the said county court shall with-
2 in five days after the appointment of said registrars as aforesaid,
3 notify each of the registrars so appointed of his appointment and
4 give the name of the other registrar, which notice may be sent by
5 registered mail, and the clerk shall likewise, on or before the third
6 Monday in March next before the election in the year in which a
7 president of the United States is to be elected, and in all other
8 years on the third Monday in May next before the election, deliver
9 or cause to be delivered, to said registrars, in person, if they shall
10 call at the office of said county clerk for the same, or to the resi-
11 dence or usual place of abode of said registrars, if they shall not
12 call in person at said county clerk's office for the same, copies of
13 the books and blanks prepared as aforesaid, for the registration of
14 voters of the respective precincts, and upon the receipt of the said
15 blanks, the said registrars shall meet together on the first Monday
16 in April next before the election in the year in which a president of
17 the United States is to be elected and in all other years on the first
18 Monday in June next before the election, and proceed to register
19 the names of all the qualified voters within their respective pre-
20 cincts, and shall endeavor to ascertain and register each and every
21 qualified voter entitled to vote within the precinct, and for this
22 purpose shall visit the usual place of abode of each and every voter ;
23 if either one of the registrars refuse or fail to register the voters
24 of his precinct, as herein required, then the other registrar may,
25 in the absence of such registrar, so refusing or failing, proceed
26 to make or complete such registration ; and it shall be the duty of
27 such registrar, so refusing or failing to do so, to copy the names of
28 the persons so registered by the other registrar, in his registration
29 book, and if he fails to do so, then it shall be the duty of the county
30 court to have the same done at its sittings, for the purpose of
31 completing and revising said registration list. From the action of
32 the county court an appeal may be taken to the circuit court, and
33 from the circuit court to the supreme court of appeals of this state.

34 Any registrar violating any of the provisions of this section
35 shall be fined not less than fifty dollars and confined in jail not less
36 than thirty days. And said registrars, to ascertain the qualified
37 voters, may examine the registration list made for such precinct
38 for the last preceding general election, and may transfer the names
39 of all voters registered on such former list, who, at the time of such
40 registration being made, may be qualified voters in said precinct,
41 to the registration being so made. But nothing herein contained
42 shall relieve said registrars from visiting the usual place of abode
43 of each and every voter and from ascertaining the qualified voters,
44 as in this act provided, and they shall in addition to examining
45 such former registration list and transferring the names of quali-
46 fied voters on such former lists as are here allowed, visit the usual
47 place of abode of each and every voter and ascertain and register
48 the qualified voters within their respective precincts, and shall
49 make a full and complete list of all such voters. And the clerk of
50 said county court shall furnish to each of said registrars a certified
51 copy of the registration list made for such precinct for the last
52 preceding general election. And in registering each voter, said
53 registrar shall (as far as possible) give the Christian name, and
54 his surname, and shall designate the place of his residence, his age
55 and color, and whether he is a native or foreign born, which infor-
56 mation shall be given in the proper column provided in the books
57 furnished by the clerk of the county court, as hereinbefore pro-
58 vided.

59 *Provided, however,* that when for any purpose a special elec-
60 tion is held in any county, district thereof, or independent district
61 thereof, at any time, it shall not be necessary for the registrars
62 to list or register any of the voters, and the voters shall be listed
63 and registered by the county court as provided in section seven
64 hereof.

Sec. 98-a-IV. Before the registrars shall register the name
2 of any person as a qualified voter, they must be satisfied of his
3 qualifications, or have him make the affidavit as hereafter provided,
4 showing his right to register, and for the purpose of this act they
5 are hereby given authority to administer oaths and they may re-
6 quire the persons desiring to register to answer under oath the fol-
7 lowing questions:

8 *First.* Are you a citizen of the United States?

9 *Second.* Are you a native or naturalized citizen? *

10 If the person offering to be registered claims to be a natural-

11 ized citizen of the United States he shall produce for the inspec-
12 tion of the officer of registration a certificate or the evidence of his
13 naturalization, and also state, under oath, or affirmation, that he
14 is the identical person named therein; but the production of the
15 certificate shall not be required, if the person offering to be
16 registered states, under oath, when and where he was natural-
17 ized, that he had a certificate of naturalization, and that against
18 his will the same is lost, destroyed or beyond his power to pro-
19 duce the same; or, if he states under oath, that, by reason of the
20 naturalization of his parents or one of them, he has become a
21 citizen of the United States, and where and when his parents
22 were naturalized.

23 *Third.* Will you have resided in this state for one year im-
24 mediately preceding the coming election?

25 *Fourth.* Have you been absent from this state within a year
26 immediately preceding the coming election?

27 (If "Yes," when?)

28 *Fifth.* When you left this state did you leave for a temporary
29 purpose with the intention of returning, or for the purpose of
30 remaining away?

31 *Sixth.* Did you, while absent, look upon or regard this state
32 as your home?

33 *Seventh.* Did you, while absent, vote in any other state?

34 *Eighth.* Will you have resided in this county for sixty days
35 prior to the coming election?

36 *Ninth.* When did you last come to this county?

37 *Tenth.* Are you an actual resident of this precinct?

38-39 *Eleventh.* Are you twenty-one years of age or will be such
40 at the coming election, to the best of your knowledge and belief?

41 No other question shall be asked the applicant for registra-
42 tion, and no one except the registrars are permitted to ask said
43 applicant any question affecting his qualifications to vote at the
44 time such applicant is applying to said registrars for registration.

45 Every person shall be registered who will be entitled to vote
46 at the first election occurring after the registration by reason of
47 his arriving at twenty-one years of age before the time, or by
48 reason of his having resided for a sufficient length of time in the
49 state and county provided he is otherwise qualified.

Sec. 98-a-VI. The said registrars after having completed
2 the registration as far as in their power, shall for the purpose of
3 amending, correcting and completing said registration, sit together

4 at some convenient place within the voting precinct for two days,
5 commencing on the first Monday in May next before the election
6 in the year in which a president of the United States is to be elect-
7 ed, from nine o'clock, A. M., to one o'clock, P. M., and from two
8 o'clock, P. M., to nine o'clock, P. M., and in all other years on the
9 first Monday in July from nine o'clock, A. M., to one o'clock, P.
10 M., and from two o'clock, P. M., to nine o'clock, P. M., next before
11 the election, and shall give notice of the time and place of their
12 sitting for such registration and correction by posting written or
13 printed notices of the time and place of such sitting for ten days
14 prior thereto, at not less than five of the most conspicuous places
15 in said voting precinct, one of which shall be at the place of vot-
16 ing in said precinct. And at the time of said sitting the books of
17 registration shall be open for public inspection, and the said regis-
18 trars, in the manner hereinbefore provided, shall register all quali-
19 fied voters who have not theretofore been so registered by them,
20 and complete and finish the registration of the voters within their
21 said precinct, and make out two alphabetical lists of the regis-
22 tered voters within said precinct entitled to vote at the ensuing
23 election as registered by them, giving the information as to each
24 voter as hereinbefore required, and shall sign and return the same
25 to the clerk of the county court on or before the second Monday
26 in said month of May next before the election in the year in which
27 a president of the United States is to be elected, and in all other
28 years on or before the second Monday in said month of July next
29 before the election, and the same shall be open to the inspection of
30 the public when filed in said clerk's office until five days prior to
31 the election.

32 Any person desiring a copy of the registered voters made by
33 said registrars as returned by them to the county court, may re-
34 quest the same and the registrars shall make and deliver a copy of
35 said registered voters upon the payment to them of two cents a
36 name for each copy so furnished.

Sec. 98-a-VII. It shall be the duty of the county court of
2 each county to convene in regular or special session on the second
3 Monday in the month next preceding any and every election to be
4 held in that county, including both primary and general election,
5 except those elections in which no registration is required, and on
6 the fifth day preceding any special election in any county, district
7 or independent district, for the purpose of hearing any and all
8 matters as to the registration of voters, at which said meeting of

9 the county court they shall examine the returns made to them by
10 the registrars throughout the county, or in case of special election,
11 throughout the county, district or independent district wherein
12 such special election is to be held, and filed with the clerk of the
13 county court as hereinbefore provided, and if they are satisfied that
14 persons have been registered who are not entitled to vote, they shall
15 cause their names to be stricken from the list of voters, and if they
16 should find that persons' names have been omitted by the registrars
16-a who should be registered, either because the same have been omit-
17 ted or by reason of such persons having become entitled to vote
18 since such registration was made, the court shall cause their names
19 to be registered as qualified voters, and an affidavit taken before
19-a either one of the registrars, while they are making such registra-
19-b tion, as provided in chapter three of the code of West Virginia,
19-c one thousand nine hundred and thirteen, shall be *prima facie*
19-d evidence before the county court that said applicant is entitled
19-e to registration in the voting precinct in which he applies for
19-f registration, and also *prima facie* evidence on appeal to the
19-g circuit court; *provided*, that such affidavit shows that the ap-
19-h plicant is entitled to registration; in case of special elections
20 at any time in the county, district or independent district of the
21 county, it shall be the duty of the county court when so sitting
22 five days preceding any such special election as hereinbefore pro-
23 vided, to register and list the voters in the county, district or in-
24 dependent district in which such special election is about to be held,
25 and in doing so the county court shall adopt the registration by reg-
26 istrars at the next preceding election prior thereto, and if the coun-
27 ty court is satisfied that persons have been registered who are not
28 then entitled to vote at such special election, they shall cause their
29 names to be stricken from the list of voters, and if they find that
30 person's names have been omitted by the registrars who should be
31 registered then, either because the names of same have been omit-
32 ted or by reason of such person having become entitled to vote
33 since such registration for the then next preceding election, *was*
34 made, the court shall cause their names to be registered as qualified
35 voters; the county court shall accordingly correct the list so return-
36 ed by the registrars for such county, district or independent district
37 wherein and wherefor such special election is to be so held, and
38 thereto certify by order entered of record, and thereby the said
39 county court shall be held to have duly registered and listed the
40 voters in such county, district and independent districts wherein

41 such special elections are held; but in no case shall the court cause
42 the name of any voter to be stricken from the registration list,
42-a until he shall have had five days' notice of the application to
43 strike his name from such registration list, and he shall have
44 the right to rebut any evidence produced against him, and shall
45 have his name restored to said list if improperly stricken there-
46 from. From the decision of the county court an appeal may be
47 taken by the voters or either of the registrars or any voter of
48 said county, to the circuit of said county, and from the decision
49 of the circuit court an appeal may likewise be taken to the
50 supreme court of appeals. In no case shall the clerk enter any
51 name on the list of registered voters, or strike any name there-
52 from, except by order of the county court entered of record. And
53 any person who shall enter any name upon the registration list or
54 omit any name from the registration list without an order of the
55 court, entered of record so directing, shall be guilty of a felony,
56 and upon conviction he shall be confined in the penitentiary not
57 less than one nor more than three years for each offense.

Sec. 98-a-XI. No person shall be allowed to vote at any elec-
2 tion hereafter held in this state unless he shall have been registered
3 as herein provided and the commissioners of every election shall
4 allow only those to vote whose names appear upon the registration
5 books furnished by the clerk of the county court to them, or who
6 present a proper certificate of transfer, as herein provided; except
7 that any person who has not been registered as herein required,
8 may apply on the day of any election to the commissioners of elec-
9 tion to be registered on said day by said commissioners before vot-
10 ing, and, upon being registered by said commissioners, shall be al-
11 lowed to vote at such election; but before such person is permitted
12 to vote, he shall make and sign an affidavit before one of the com-
13 missioners, or some one authorized to administer oaths, which af-
14 fidavit shall contain the same allegations and information as
14-a may be required by the registrars under this act in listing voters
15 and, in addition thereto, such person shall state, under oath, the
16 cause and reasons of his not having been registered in accordance
17 with the other provisions of this act. Said affidavit shall also
18 contain the names of two creditable and reliable qualified voters
19 of the precinct in which said person offers to vote, who shall be
20 known to said election commissioners, or other person before
21 whom he shall make affidavit, to be creditable and reliable quali-
22 fied voters of said precinct, and said two persons shall also make

23 and sign an affidavit before some one entitled to administer oaths,
24 stating under oath that said person, so desiring to vote and who
25 has made the affidavit hereinbefore required, is well known to
26 them and that they believe the statements made by him in his affi-
27 davit to be true, which affidavits of said person offering to vote and
28 said two creditable and reliable qualified voters shall be accepted by
29 said commissioners; and, upon the making and presentation of
30 said affidavits, containing the matters herein required, said person,
31 so desiring to vote, shall thereupon be deemed a qualified voter and
32 his name shall be listed upon the registration list of the precinct in
33 which he offers to vote and he shall be permitted to vote by said
34 commissioners of election. And any commissioner of election who
35 shall wilfully violate any of the provisions of this act shall be
36 deemed guilty of a misdemeanor, and upon conviction thereof shall
37 be fined not less than fifty nor more than one hundred dollars, and
38 imprisoned in the county jail not less than ten nor more than
39 ninety days for every such offense.

40 All acts or parts of acts inconsistent herewith are hereby re-
41 pealed.

Senate Bill No. 8

AN ACT re-districting the state for representatives in the congress
of the United States.

Be it enacted by the Legislature of West Virginia:

Section 1. The number of members to which this state is en-
2 titled in the house of representatives of the United States shall be
3 apportioned amongst the several counties of the state, arranged into
4 six districts, numbered as follows, that is to say:

5 First Congressional District—Hancock, Brooke, Ohio, Mar-
6 shall, Wetzel, Marion and Taylor.

7 Second Congressional District—Monongalia, Preston, Bar-
8 bour, Randolph, Tucker, Pendleton, Grant, Hardy, Mineral,
9 Hampshire, Morgan, Berkeley and Jefferson.

10 Third Congressional District—Ritchie, Doddridge, Harrison,
11 Calhoun, Gilmer, Lewis, Upshur, Braxton, Clay, Nicholas and
12 Webster.

13 Fourth Congressional District—Tyler, Pleasants, Wood, Wirt,
14 Jackson, Roane, Mason, Putnam and Cabell.

15 Fifth Congressional District—Wayne, Lincoln, Mingo, Lo-
16 gan, McDowell, Wyoming, Mercer, Summers and Monroe.

17 Sixth Congressional District—Kanawha, Boone, Raleigh, Fay-
18 ette, Greenbrier and Pocahontas.

19 And that each of said congressional districts shall elect one
20 member of the house of representatives to the congress of the
21 United States.

Senate Bill No. 111

AN ACT to amend and re-enact sections one, six, eight, eleven, twelve, twenty-four and twenty-five of chapter fifty-eight of the acts of one thousand nine hundred and nine, entitled "An act providing for the government and control of the public institutions of the state, by creating a state board of control and a state board of regents, and fixing the duties, powers, responsibilities and compensation of said boards and the members thereof," and to repeal conflicting acts.

Be it enacted by the Legislature of West Virginia:

That sections one, six, eight, eleven, twelve, twenty-four and twenty-five of chapter fifty-eight of the acts of one thousand nine hundred and nine, be amended and re-enacted so as to read as follows:

Section 1. The state board of control, created by chapter fifty-eight of the acts of the legislature of one thousand nine hundred and nine, shall continue, and shall be a corporation, and have and use a common seal. It shall consist of three members, not more than two of whom at the time of appointment shall belong to the same political party, to be appointed by the governor by and with the advice of the state senate. The term of office shall be six years. The members now in office shall serve to the end of their respective terms, unless sooner removed as herein provided. The governor may remove any member for incompetency, neglect of duty, drunkenness, gross immorality, malfeasance in office, or for other good cause, and fill the vacancy made by any such removal, or made by death, resignation or otherwise, by appointment for the unexpired term. The salary of each member shall be five thousand dol-

15 lars per year, to be paid monthly; and each shall be paid his
16 actual traveling and other necessary expenses when absent from
17 the state capital on official business. The board shall be provided
18 with an office at the state capital, and with such furniture and
19 clerical and other assistance as shall be necessary. The members
20 shall give their entire time to the discharge of the duties of
21 their office. The board shall choose one of their members president,
22 and another treasurer. They may select a secretary and such
23 other officers as they may deem best. The offices of treasurer and
24 secretary may be held by the same member. Before entering upon
25 the duties of his office, each member shall take and subscribe the
26 oath of office prescribed by the constitution, the certificate whereof
27 shall be filed with records of the board, and he shall give bond in
28 the penalty of ten thousand dollars, conditioned for the faithful
29 performance of the duties of his office, and to account for and
30 pay over according to law all moneys or other thing of value
31 which shall come into his hands or under his control by virtue
32 of his office; but the treasurer's bond shall be in the penalty of
33 twenty-five thousand dollars, which shall cover his liability as a
34 member, and as the treasurer. The board may cause the surety in
35 any of such bonds to be a surety or bonding company authorized to
36 do business in this state, and pay the costs thereof out of its
37 current or contingent expense fund. All such bonds shall be ap-
38 proved as to form by the attorney general, and as to sufficiency by
39 the governor, and when so approved shall be filed and recorded
40 in the office of the secretary of state. In the absence of the presi-
41 dent or of the treasurer from the state capital, or in the disability
42 of either, the duties of his office may be performed by another
43 member of the board. All deeds, contracts, agreements and other
44 such writings may be executed by the state board of control by the
45 signing of the name of the board thereto by the president, and im-
46 pressing the seal of the board thereon, attested by the signature
47 of the secretary; and when so executed any such deed, contract,
48 agreement or other such writing shall be deemed the act and deed
49 of said board, and shall be admitted to record in the office of the
50 clerk of the county court, and in any other office or place where
51 writings are admitted to record.

Sec. 6. All moneys and funds belonging to the state which
2 shall come into the hands or control of the head officer, or other
3 officer, of any of the institutions mentioned in sections three and

4 four, or of any other institution, department, board, commission,
5 or other agency of the state, or of any person connected therewith,
6 and under the control and management of the state board of
7 control in whole or in part, or the fiscal or financial affairs of
8 which are subject to the control or management of said board, shall
9 be paid to the treasurer of said board at least once in each month,
10 on or before the tenth day of the month succeeding the month in
11 which such moneys or funds were received, under such rules and
12 regulations as said board shall prescribe. The state board of con-
13 trol shall cause such money and funds to be paid into the state
14 treasury to the credit of the proper fund of the institution, de-
15 partment, board, commission, or other agency of the state, by
16 depositing the same in a state depository and delivering to the
17 auditor the certificate of deposit therefor. The auditor shall
18 credit the same to the institution, department, board, commis-
19 sion or state agency, as shown by the certificate of deposit; and the
20 state board of control shall have authority to issue requisitions,
21 from time to time, on such moneys and funds to be expended for
22 the support or benefit of the institution, department, board, com-
23 mission, or state agency for which the same was appropriated or
24 provided, and all such moneys and funds are hereby appropriated
25 for the purpose. Such moneys and funds are hereby named "state
26 board of control funds." Whenever the appropriations by the
27 legislature are insufficient to pay the expenses of conducting any
28 of said institutions, the deficiency shall be certified by the state
29 board of control to the board of public works. Such certificates
30 shall state the name of the institution, the items and amount in
31 detail needed, and the board of public works may direct payment
32 of the same or any part thereof as provided in chapter sixteen
33 of the acts of one thousand nine hundred and four.

Sec. 8. The state board of control or one or more of its
2 members shall visit each of the institutions under its control and
3 management in whole or in part as often as may be necessary, and
4 may hold a regular meeting of the board at any such institution.
5 During any such visitation the board or any member thereof shall
6 thoroughly inspect all the departments thereof and investigate
7 the condition and management of the same; and for the purpose
8 of aiding any such investigation the board or any member thereof
9 shall have power to summon and compel the attendance of wit-
10 nesses, to be examined under oath, which any member shall have the
11 power to administer; and the board or any member thereof shall

12 have access to all books, papers and property necessary to any such
13 investigation, and may order the production of any books, papers
14 or property. Witnesses, other than employees of the state, shall
15 be entitled to the same fees as in civil cases in the circuit court.
16 In any investigation by the board, or by any member thereof, it or
17 he may cause the testimony to be taken in shorthand and tran-
18 scribed and filed in the office of the board as soon after the same is
19 taken as practicable. Any person refusing or failing to obey the
20 order of the board, or any member thereof, issued under the pro-
21 visions of this section, or to give or produce any evidence required,
22 shall be reported by the board or the member thereof conducting
23 the investigation to the proper circuit court or the judge thereof,
24 and such person so refusing or failing shall be dealt with by the
25 court or judge as for contempt.

Sec. 11. The state board of control is hereby authorized and
2 required to purchase all supplies for the proper support and main-
3 tenance of the institutions named in sections three and four,
4 and for any other institution, department, board, commission, or
5 other state agency, under its control or management in whole or in
6 part. Such supplies shall be purchased whenever practicable by
7 contract on competitive bids, and notice of the same shall be given,
8 whenever the board thinks best, by publication in at least two
9 newspapers of general circulation in the state for not less than
10 two weeks prior to the award made; and a written or printed
11 notice shall be sent to every manufacturer or dealer of or in the
12 article or commodities for which prices are desired who has re-
13 quested his name to be placed upon the mailing list. The contract
14 shall be awarded to the lowest responsible bidder, if the price be a
15 fair and reasonable one, and not greater than the market price.
16 The board is authorized to require such surety as it may deem
17 proper to accompany the bids submitted, and shall also fix the
18 amount of the bond or other security that shall be furnished by the
19 person, firm or corporation to whom the contract for any supplies
20 is awarded. The board shall have the power to reject any and all
21 bids submitted, if for any reason it is deemed to the best interests
22 of the state to do so, and to re-solicit bids in accordance with the
23 provisions of this section. The board may determine the kind and
24 character of animals to be slaughtered for meats for use in the
25 several institutions under its control and it shall make such rules
26 and regulations as may be necessary for the inspection of meats,
27 poultry, bread and other supplies intended for use in any of the

28 said institutions. In accepting bids for supplies preference shall
29 be given citizens of this state, other things being equal. When-
30 ever the board fail to make contracts for supplies the same
31 may be purchased by the chief officer in charge of an institution,
32 under such rules and regulations as shall be prescribed by the
33 board of control. It shall be the duty of the chief officer of each
34 institution named herein to cause to be prepared estimates of sup-
35 plies required for the proper conduct and maintenance of the
36 institution under his charge, covering periods to be fixed by the
37 board of control, and to forward the same to the board in accord-
38 ance with its directions. No member or officer of the board of
39 control, or of the state board of regents, and no person in their
40 employ and no officer or employee of any state institution shall
41 be directly or indirectly interested in the purchase of supplies, or
42 in any supplies purchased, nor in any contract, agreement or un-
43dertaking entered into by and for any of said institutions; and if
44 he be so interested he shall forfeit his office, such contract shall be
45 void, and such person shall be liable to the state upon his official
46 bond for all damages. No member of said board, no officer, agent
47 or employee thereof, and no officer of any institution under their
48 charge, shall directly or indirectly for himself or for another, or
49 for any such institution, receive or accept any gift or gratuity or
50 thing of value from any dealer in goods, merchandise or supplies
51 which are or may be used in such institutions, or from any person,
52 firm or corporation who are or may be interested in any contract
53 with such board for or on account of the state. Any violation
54 of this section shall be a misdemeanor, and be punished by a fine of
55 not less than twenty-five nor more than five hundred dollars.

Sec. 12. The state board of control is vested with authority
2 to employ competent architects for the preparation of plans and
3 specifications for all new buildings hereafter to be built by the
4 state, or for the repairing or remodeling of existing buildings, or
5 the construction of additions thereto; to employ competent persons
6 to superintend the work of constructing new buildings or of such
7 repairs, remodeling or additions, and to call for bids and award
8 contracts for such work. The board shall have authority to erect
9 any new building, or to make repairs or additions to, or changes
10 in, any building already constructed, without letting the same to
11 contract, or by employing thereon the labor of the inmates of any
12 institution of the state, whenever in the judgment of the board the
13 best interests of the state will be subserved thereby. The board

14 may also provide with contractors for the erection of new buildings
15 or for additions or repairs to old ones, to use thereon the labor of
16 such inmates. The board has authority, whenever in its judgment
18 a new building is needed by the state, or whenever it is necessary
19 to build an addition or make material repairs to a building already
20 in existence, with the approval of the governor, to employ a
21 competent architect or architects to make plans and specifications
22 therefor, and estimate of the cost thereof, for submission to the
23 next session of the legislature, to aid that body in making an ap-
24 propriation for the purpose. The governor may pay the cost of
25 such plans and specifications and estimates out of his civil con-
26 tingent fund, or the board may cause the same to be paid out of
27 the current expense fund or out of any appropriation made for
28 buildings and land or for repairs and improvements of the in-
29 stitution for which the building or work is designed. So far as
30 practicable, hereafter all buildings erected for the use of the state
31 shall be fire-proof.

Sec. 24. The state board of control shall have authority to
2 transfer patients from one institution for the insane, or from any
3 institution hereafter created for epileptics, feeble-minded, imbe-
4 ciles, or idiots, to any other institution for the insane, epileptics,
5 feeble-minded, imbeciles, or idiots; to transfer inmates from the
6 girls' industrial home, or the boys' industrial school, or the schools
7 for the deaf and the blind, to the homes for children or orphans;
8 to transfer insane, epileptic, feeble-minded, imbecile, or idiotic
9 inmates from any institution of the state to any other state institu-
10 tion conducted for their care or treatment; and generally to
11 cause the transfer of any patient or inmate from any state institu-
12 tion, except the penitentiary, to any other state institution which
13 is better fitted for the care or treatment of such patient or inmate,
14 or for other good cause or reason.

Sec. 25. The state board of control shall have authority to
2 cause the head officer or any other officer of any institution, depart-
3 ment, board, commission, or other state agency, under its control
4 or management in whole or in part, or any of its own employees, to
5 give bond, conditioned for the faithful performance of the duties
6 of his office, and to account for and pay over all money and other
7 property of the state which shall come into his hands or control by
8 virtue of his office in such penalty as the board may deem proper;
9 and may provide that the surety in any such bond shall be a
10 surety or bonding company authorized to do business in this state,

11 and cause the premium for bonds so given to be paid out of the
12 current or contingent expense fund of the institution or board or
13 body with which the person so bound is connected. All such
14 bonds shall be subject to the approval of the state board of control;
15 and, when so approved, shall be filed with the treasurer of the
16 board and by him safely kept.

17 All acts and parts of acts coming within the purview of this
18 act, and inconsistent therewith, are hereby repealed.

SENATE JOINT RESOLUTION NO. 8.

(Adopted February 24, 1915.)

“Proposing an amendment to the constitution in relation to county courts.”

Resolved by the Legislature of West Virginia, two-thirds of the members elected to each House agreeing thereto:

That article eight, section twenty-three of the constitution, be amended so as to read as follows:

Sec. 23. The commissioners shall be elected by the voters
2 of the county, and hold their office for the term of six years, except
3 at the first meeting of said commissioners they shall designate by
4 lot, or otherwise in such manner as they may determine, one of
5 their number who shall hold his office for a term of two years, one
6 for four years and one for six years, so that one shall be elected
7 every two years. But no two of said commissioners shall be elected
8 from the same magisterial district. But if two or more persons
9 residing in the same district shall receive the greater number of
10 votes cast at any election, then only the one of such persons receiving the highest number of votes shall be declared elected, and the
11 person living in another district who shall receive the next highest
12 number of votes shall be declared elected.

Said commissioners shall annually elect one of their number
2 as president, and each shall receive four dollars per day for his
3 services in court, to be paid out of the county treasury; *provided*,
4 *however*, that said payment of four dollars per day shall not ex-
5 ceed the sum of four hundred dollars per year for each commis-
6 sioner; and, *provided, further*, that such compensation may be in-
7 creased in any county by the assent of a majority of the votes cast
8 on the question at any general or special election.

SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted January 13, 1915.)

“Raising a Joint Committee to wait upon the Governor.”

Resolved by the Senate of West Virginia, the House concurring therein:

That the two Houses concur in the appointment of a select committee of five, composed of two members of the Senate, appointed by the President, and three members of the House of Delegates, appointed by the Speaker, to jointly wait upon the Governor and inform him that the Legislature is organized, with a quorum of each House present, and is prepared to receive any communication he may be pleased to make.

SENATE CONCURRENT RESOLUTION NO. 2.

(Adopted January 29, 1915.)

“Raising a joint committee to confer with the governor on the Virginia debt.”

Resolved, by the Senate of West Virginia, the House of Delegates concurring therein:

That a special committee consisting of three members from each house be appointed by the presiding officers thereof—not more than two members of the committee from each body to belong to the same political party—to confer with the governor in conformity with his special message.

SENATE CONCURRENT RESOLUTION NO. 3.

(Adopted February 5, 1915.)

Authorizing and directing the clerks of the two houses to have printed advance copies of Senate Bill No. 79.

Resolved, by the Senate of West Virginia, the House of Delegates concurring therein:

That the clerks of the senate and house of delegates are hereby

authorized and directed to have printed 2500 advance copies of Senate Bill No. 79, amending the prohibition laws of the state, for distribution among the members of the legislature and for public distribution.

SENATE CONCURRENT RESOLUTION NO. 4.

(Adopted February 10, 1915.)

Authorizing and directing the clerks of the two houses to have printed advance copies of Senate Bill No. 131.

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CONCURRENT RESOLUTIONS.

Resolved, by the Senate of West Virginia, the House of Delegates concurring therein:

That the clerks of the senate and the house of delegates are hereby authorized and directed to have printed two thousand five hundred advance copies of Senate Bill No. 131, amending the mining laws of the state, for distribution among the members of the legislature and for public distribution.

SENATE CONCURRENT RESOLUTION NO. 5.

“Providing for the printing and distribution of advance copies of the acts of the regular session of one thousand nine hundred and fifteen.”

Resolved by the Senate, the House of Delegates concurring therein:

That the clerks of the two houses are hereby directed to have printed by the public printer, two thousand five hundred advance copies of the acts of this session exclusive of municipal charters, properly headnoted, and with a full table of contents, and in paper binding, for distribution among the members of the legislature, judges of the supreme court of appeals, and of the county, circuit, criminal and intermediate courts, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the Clerks of the two Houses as soon as possible after the adjournment of this session. Upon receipt of the same, the Clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least ten of said advance copies, and one copy to each of the officials hereinbefore enumerated, and ten copies to each

of the state officials. The said Clerks are also authorized and directed to have printed in signature or advance sheet form laws which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of the contingent fund of the House and one hundred dollars out of the contingent fund of the Senate or so much thereof as is actually used for the purpose, is hereby directed to be paid by the auditor upon proper warrants drawn by the Clerk of the Senate and Sergeant-at-Arms of the House, respectively, to pay the postage or expressing of said advance copies.

CONCURRENT RESOLUTIONS.

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For the extra work provided for in this resolution, the time of said Clerk and one assistant clerk from each House is extended for sixty days, the per diem to be paid out of the contingent fund of the Senate and House, respectively, upon proper warrants being drawn therefor by the Clerk of the Senate and Sergeant-at-Arms of the House, and the Auditor is hereby authorized and directed to pay the same.

 SENATE JOINT RESOLUTION NO. 4.

(Adopted February 1, 1915.)

“Assenting to and accepting the provisions and requirements of the act of Congress known as the ‘Smith-Lever Act,’ approved May 8, 1914.”

WHEREAS, The Congress of the United States has passed an act approved by the President, May 8, 1914, entitled “An Act to provide for Co-operative Agricultural Extension Work between the Agricultural Colleges in the several states receiving the benefits of the act of Congress approved July 2, 1862, and of acts supplementary thereto, and the United States Department of Agriculture;” and,

WHEREAS, It is provided in section three of the act aforesaid, that the grants of money authorized by this act shall be paid annually “to each state which shall by action of its legislature assent to the provisions of this act;” therefore, be it

Resolved by the Legislature of West Virginia:

That the State of West Virginia hereby assents to the provisions and requirements of said act, and that the State Board of Control be and they are hereby empowered to receive the grants of money appropriated under said act, the same to be expended in organizing

5 and conducting agricultural extension work which shall be carried
6 on in connection with the College of Agriculture of the West Vir-
7 ginia University, in accordance with the terms and conditions ex-
8 pressed in the act of Congress aforesaid.

SENATE JOINT RESOLUTION NO. 5.

(Adopted February 28, 1915.)

“Amending section one of article four of the Constitution of West Virginia, granting to women the right of suffrage.”

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each house agreeing thereto:

That the following be and the same is hereby proposed as an
2 amendment to the Constitution of this state, to-wit:

That section one of article four of said Constitution as it now is,
2 be altered and amended so as to read as follows:

Section 1. The citizens of the state, both male and female, shall
2 be entitled to vote at all elections held within the counties in which
3 they respectively reside; but no person who is a minor, or of un-
4 sound mind, or a pauper, or who is under conviction of treason,
5 felony, or bribery in an election, or who has not been a resident of
6 the state for one year, and of the county in which he or she offers
7 to vote, for sixty days next preceding such offer, shall be permitted
8 to vote while such disability continues; but no person in the
9 military, naval or marine service of the United States shall be
10 deemed a resident of this state by reason of being stationed therein.

SENATE JOINT RESOLUTION NO. 6.

(Adopted January 26, 1915.)

“Authorizing the secretary of state to furnish the law library of West Virginia University with copies of the Supreme Court Reports.”

Resolved by the Legislature of West Virginia:

That the secretary of state is hereby authorized and directed to
2 transmit to the law library of West Virginia University, six full
3 sets of the reports of the Supreme Court of Appeals of this state in
4 addition to the two sets heretofore delivered.

SENATE JOINT RESOLUTION NO. 7.

(Adopted January 29, 1915.)

Adopting joint rules for the government of the two Houses of the Legislature during the present session, or until otherwise ordered.

Resolved by the Legislature of West Virginia:

That the Joint Rules of the Senate and House of Delegates as they appear in the Legislative Manual of 1913, be and they are hereby adopted for the government of the two Houses during the present session, or until otherwise ordered, excepting that Rule No. 7, pertaining to the manner of electing United States Senator shall be stricken out, and Rule No. 2 be amended to read as follows:

2. After a bill has been passed by both houses, the type from which it was originally printed shall be corrected as to any typographical errors that may not theretofore have been corrected, and to meet any amendments that may have been made by either House since the last printing of the bill, and after the type has been so corrected twenty copies of the bill shall be printed on eight by ten heavy bond paper for the use of the Joint Committee on Passed Bills, otherwise known as the Joint Committee on Enrolled Bills, one of which copies, when properly authenticated, shall become the enrolled bill. The Joint Committee on Passed Bills, otherwise known as the Joint Committee on Enrolled Bills, shall consist of five members of the Senate and five members of the House of Delegates, to be appointed by the presiding officer of each House, whose duty it shall be to compare carefully all bills and joint resolutions passed by both Houses, with the enrollment thereof, and to correct any errors or omissions they may discover and to make report to their respective Houses each day of the correctly enrolled bills or joint resolutions. They shall be authenticated by the signature of the Chairman of the House Committee and the Chairman of the Senate Committee, composing such Joint Committee on Passed Bills, otherwise known as the Joint Committee on Enrolled Bills, but in the absence of such chairman another member of the committee may act in his stead, and they shall require all bills and joint resolutions before such authentication to be free from interlineation or erasures, and destroy any previous enrollment containing any interlineation or erasure. After enrolled bills and joint resolutions are authenticated as

28 aforesaid, they shall be signed by the Speaker of the House and by
29 the President of the Senate.

Resolved, further, that the remaining joint rules as printed
2 in the Manual of 1913 be and the same are hereby adopted as the
3 remaining joint rules governing the two Houses during the pres-
4 ent session.

Resolved, further, that the Clerks of the two Houses are here-
2 by directed to make any consequential amendments in section
3 numbers of the rules that are made necessary by the adoption of
4 this resolution.

SENATE JOINT RESOLUTION NO. 3.

(BY MR. FOX)

SENATE JOINT RESOLUTION NO. 3—"Proposing an amendment to the
constitution of the state of West Virginia, by adding an addi-
tional section, creating the office of lieutenant governor; defining
his qualifications, prescribing his functions and duties, providing
for the succession to the office of governor and for the presidency
of the senate."

*Resolved, by the Legislature of West Virginia, two-thirds of the
members elected to both houses agreeing thereto:*

That the constitution of the state of West Virginia be amended
2 by adding thereto a section as follows:

The office of lieutenant governor is hereby created. The lieu-
4 tenant governor shall possess the same qualifications that are, or
5 may be, prescribed for the governor. He shall be elected at the
6 same time and for the same term as the governor. The lieutenant
7 governor first elected hereunder shall be chosen at the general
8 election to be held in November, one thousand nine hundred and
9 sixteen.

The lieutenant governor shall be *ex-officio* president of the senate,

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11 but shall have no vote therein, except in case of a tie. The senate
12 shall have the power to elect for its own body a president *pro*
13 *tempore*, who shall preside over the senate in case of a vacancy in
14 the office of lieutenant governor, in case of the absence or inability
15 to act of the lieutenant governor, or in case the lieutenant governor
16 is acting as governor; and in any of these events, at the commence-
17 ment of the first session of the senate next after a general election,

18 or at the commencement of any session, where there is no lieutenant
19 governor, or president *pro tempore*, to preside, the oldest member
20 of the senate shall call the senate to order, and shall preside over
21 the senate until a president *pro tempore* shall have been chosen and
22 taken his seat, or until the removal of the disability or the return
23 of the lieutenant governor.

The oldest senator, and the oldest delegate, where that expression
25 is used in the constitution, shall mean the one oldest in continuous
26 service in his respective house; and if two or more have had the
27 same continuous service, then the one of those who is oldest in
28 years shall be meant.

In the case of death, conviction or impeachment, failure to
30 qualify, resignation or other disability of the governor, the duties
31 of the governor shall devolve upon the lieutenant governor, who
32 shall act as governor for the balance of the unexpired term, and
33 until a successor is elected and qualified, or until the disability of
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34 the governor is removed; and if the lieutenant governor for any
35 cause shall become incapable of performing the duties of governor,
36 the same shall devolve upon the speaker of the house of delegates,
37 who shall act as governor until a successor is elected and qualified;
38 and in case the duties of governor do not devolve upon the speaker
39 of the house when more than one year of the term of the governor
40 remains unexpired, a special election shall be called within four
41 months to fill the vacancy for the unexpired term, as shall be
42 provided by law.

In all other cases, where there is no one to act as governor, one
44 shall be chosen by a joint vote of the two houses of the legislature,
45 who, for the purpose of choosing some one to act as governor, shall
46 at the earliest possible date be summoned in extraordinary session
47 by the secretary of state; and in case a governor is so chosen by
48 joint vote of the two houses, his tenure of office and the election of
49 his successor shall be governed by the same rules as are above
50 provided in cases where the duties of the governor devolve upon the
51 speaker of the house of delegates.

SENATE JOINT RESOLUTION NO. 2.

(BY MR. FOX)

SENATE JOINT RESOLUTION No. 2—"Instructing the finance com-

mittees of the two Houses to report the appropriation bills within a time specified."

WHEREAS, Among the important measures to come before this session of the legislature, are the bills appropriating moneys to carry on the government of the state and its several institutions; and,

WHEREAS, In order that each member of the legislature may vote intelligently on said bills, it is necessary that a reasonable time be given for their discussion on the floor of the Senate and House of Delegates; therefore be it

Resolved, That the Committee of Taxation and Finance of the House, and the Committee of Finance of the Senate—the two committees having in charge the preparation of such bills—be and they are hereby instructed to report the same to their respective bodies out of which said committees are created, not later than the 15th day of February, 1915.

SENATE JOINT RESOLUTION NO. 1.

(BY MR. KUMP.)

SENATE JOINT RESOLUTION No. 1—"Proposing an amendment to the constitution of the state of West Virginia, by adding an additional section, creating the office of Lieutenant Governor, defining his qualifications, prescribing his function and duties, providing for the succession to the office of the Governor and for the Presidency of the Senate."

Resolved, By the Legislature of West Virginia, two thirds of the members elected to both Houses agreeing thereto:

"The office of Lieutenant Governor is hereby created. The Lieutenant Governor shall possess the same qualifications that are, or may be prescribed for the Governor. He shall be elected at the same time and for the same term as the Governor. The Lieutenant Governor first elected hereunder shall be chosen at the general election to be held in November, 1920.

The Lieutenant Governor shall be *ex-officio* President of the Senate, but shall have no vote therein except in case of a tie. The Senate shall have the power to elect for its own body a President *pro tempore*, who shall preside over the Senate in case of a vacancy

in the office of Lieutenant Governor, in case of the absence or in-

12 ability to act of the Lieutenant Governor, or in case the Lieutenant
13 Governor is acting as Governor; and in any of these events—at
14 commencement of the first session of the Senate next after a gener-
15 al election, or at the commencement of any session where there is
16 no Lieutenant Governor, or President *pro tempore* to preside—the
17 oldest member of the Senate shall call the Senate to order, and
18 shall preside over the same until a President *pro tempore* shall
19 have been chosen and taken his seat, or until the removal of the
20 disability, or the return of the Lieutenant Governor.

The oldest Senator and the oldest delegate, where those expres-
22 sions are used in the constitution, shall mean the one oldest in
23 continuous service in his respective House, and if two or more have
24 had the same continuous service, then the one of those who is oldest
25 in years shall be meant.

In case of the death, conviction or impeachment, failure to
27 qualify, resignation or other disability of the Governor, the duties
28 of the Governor, shall devolve upon the Lieutenant Governor, who
29 shall act as Governor for the balance of the unexpired term, and
30 until his successor is elected and qualified, or until the disability of
31 the Governor is removed; and if the Lieutenant Governor for any
32 cause shall become incapable of performing the duties of Governor,
33 the same shall devolve upon the Speaker of the House of Delegates,
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34 who shall act as Governor until a successor is elected and qualified,
35 and in case the duties of Governor do not devolve upon the Speaker
36 of the House when more than one year of the term of the Governor
37 remains unexpired, a special election shall be called within four
38 months to fill the vacancy for the unexpired term, as shall be pro-
39 vided by law.

In all other cases, where there is no one to act as Governor
41 one shall be chosen by a joint vote of the two houses of the Legis-
42 lature, who, for the purpose of choosing some one to act as Gov-
43 ernor, shall at the earliest possible date be summoned in extra-
44 ordinary session by the Secretary of State, and in case a Governor
45 is chosen by joint vote of the two Houses, his term of office and the
46 election of his successor shall be governed by the same rules as are
47 above provided in cases where the duties of Governor devolve upon
48 the Speaker of the House of Delegates.

SENATE BILLS
EXTRAORDINARY SESSION

EXTRAORDINARY SESSION.

Senate Bill No. 14

[BY MR. GOODYKOONTZ, BY REQUEST.]

Introduced March 4, 1915. Referred to the Committee on Agriculture. Ordered printed by the Committee.

A BILL providing for the gathering of samples, the analysis, testing and marking of commercial feeding stuffs and providing an inspection tax therefor and penalties for its violation.

Be it enacted by the Legislature of West Virginia:

Section 1. The term "Commercial Feeding Stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains, the unmixed meals made directly from the entire grain of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo, whole hays, straws, cotton seed hulls and corn stover when unmixed with other materials, together with all other materials containing sixty per cent. of water.

Sec. 2. Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state, shall have affixed thereto a tag or label, in conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel;

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(b) The name, brand or trade mark;

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;

(d) The minimum per centum of crude protein;

(e) The minimum per centum of crude fat;

(f) The maximum per centum of crude fiber;

(g) The specific name of each ingredient used in its manufacture. The crude protein, crude fat and crude fiber shall be determined by the methods in force at the time by the association of official agricultural chemists of the United States.

Sec. 3. Before any manufacturer, importer, jobber, firm, as-

2 socation, corporation or person shall sell, offer or expose for sale
3 or distribute in this state any commercial feeding stuffs, he or
4 they shall file with the commissioner of agriculture a certified
5 copy of the statement specified in section two for each brand of
6 commercial feeding stuffs; said certified copy to be accompanied,
7 when the commissioner of agriculture shall so request, by a sealed
8 package containing at least one pound of the commercial feeding
9 stuffs to be sold, offered or exposed for sale or distributed in this
10 state, and the company or person furnishing said sample shall
11 thereupon make affidavit that the said sample is representative
12 of the commercial feeding stuffs offered for registration.

Sec. 4. Each and every manufacturer, importer, jobber,
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2 firm, association, corporation or person manufacturing or sell-
3 ing any commercial feeding stuffs as defined in section one of
4 this act, shall pay to the commissioner of agriculture an inspection
5 tax or fee of twenty cents per ton for each brand of commercial
6 feeding stuffs sold, offered or exposed for sale, or distributed in
7 this state, and shall affix to or accompany each lot shipped in
8 bulks, and to each parcel of such commercial feeding stuffs, a
9 tag, stamp or label to be furnished by the commissioner of agri-
10 culture, stating that all charges specified in this section have
11 been paid. Whenever any commercial feeding stuffs as defined
12 in section one if offered or exposed for sale in bulk or otherwise
13 stored, the manufacturer, importer, jobber, firm, association, cor-
14 poration or person keeping the same for sale shall keep on hand
15 cards upon which shall be printed the statement required by the
16 provisions of section two, and when such feeding stuffs is sold at
17 retail in bulk or in package belonging to the purchaser, the manu-
18 facturer, importer, jobber, firm, association, corporation or per-
19 son shall furnish the purchaser with sufficient tax tags or stamps
20 which appears the statement required by the provisions of section
21 two.

Sec. 5. The commissioner of agriculture shall have power to
2 refuse to register any commercial feeding stuffs under a name,

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3 brand or trade mark, which would be misleading or deceptive
4 or which would tend to mislead or deceive as to the materials of
5 which it is composed, or when the specific name of each and all
6 ingredients used in its manufacture are not stated. He shall

7 also have the power to refuse to register more than one com-
8 mercial feeding stuff under the same name or brand when offer-
9 ed by the same manufacturer, importer, jobber, firm, association,
10 corporation or person. Should any commercial feeding stuffs
11 be registered in this state, and it is afterward discovered that
12 such registration is in violation of any of the provisions of this
13 act, the said commissioner of agriculture shall have the
14-15 power to cancel such registration. The commis-
16 sioner of agriculture shall have the power to refuse to allow any
17 manufacturer, importer, jobber, firm, association, corporation or
18 person to lower the guaranteed analysis or change the ingredi-
19 ents of any brand of his or their commercial feeding stuffs dur-
20 ing the term for which requested, unless satisfactory reasons are
21 presented for making such change or changes.

Sec. 6. Whenever a manufacturer, importer, jobber, firm,
2 association, corporation or person manufacturing or selling a
3 brand of commercial feeding stuffs, shall have filed the statement
4 required by section three, and paid the inspection tax or fee, as
5 required by section four of this act, no other agent, importer,
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6 jobber, firm, association, corporation or person shall be required
7 to file such statement or pay such tax or fee upon such brand.

Sec. 7. The commissioner of agriculture is authorized in
2 person or by deputy to have free access to all places of business,
3 mills, buildings, carriages, cars, vessels and parcels of whatso-
4 ever kind used in the manufacture, transportation, importation,
5 sale or storage of any commercial feeding stuffs, and shall have
6 the power and authority to open any parcel containing or sup-
7 posed to contain any commercial feeding stuffs, and upon ten-
8 der and full payment of the selling price of said sample, to take
9 therefrom in the manner prescribed in section eight, samples for
10 analysis, and said commissioner of agriculture shall annually
11 cause to be analyzed at least one sample so taken of every com-
12 mercial feeding stuff that is found sold, offered or exposed for
13 sale or distributed in this state.

Sec. 8. A representative sample of each brand of commer-
2 cial feeding stuff found sold, offered or exposed for sale shall be
3 taken by the said commissioner of agriculture or his duly author-
4 ized representative in the presence of at least one witness. No
5 action shall be maintained for a violation of the provisions of
6 this act, based upon any analysis of a sample from not less than

7 five separate original packages, unless there be less than five
8 separate original packages in the lot, in which case portions for

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9 the official sample shall be taken from each original package;
10 if the commercial feeding stuff is in bulk, portions shall be taken
11 from not less than five different places in the lot; *provided*, that
12 this does not exclude sampling in bulk when not exposed suffi-
13 ciently to take portions from five different places, in which case
14 portions are to be taken from as many places as practicable. If
15 the sample thus secured is larger than is required, it shall be
16 mixed and quartered until a sample of suitable size remains.
17 Said sample shall be divided into two parts, and shall be placed
18 in packages and sealed in the presence of said witness, one of
19 said packages so sealed shall be held by the commissioner of
20 agriculture at the disposal of the person named on the tag or la-
21 bel of the feeding stuff sampled for one year the other package
22 the said commissioner of agriculture shall cause to be analyzed
23 by the methods of the association of official agricultural chemists
24 of the United States, official at the time, and the results of each
25 analysis, together with such additional information as the said
26 commissioner of agriculture may deem advisable, shall be prompt-
27 ly transmitted to the manufacturer or person responsible for the
28 placing of the commodity on the market and shall be published
29 in reports or bulletins from time to time.

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Sec. 9. If it appears that any of the provisions of this act have
2 been violated, the commissioner of agriculture shall certify the facts
3 to the proper prosecuting attorney and furnish that officer with a
4 copy of the results of the analysis or other examination of such
5 feeding stuffs duly authenticated by the analyst or other officer
6 making the determination, under the oath of such officer; *provided*,
7 that if it shall appear from any such examination that any of the
8 provisions of this act have been violated, the said commissioner of
9 agriculture shall cause notice to be given to the manufacturer or
10 dealer from whom said sample was taken, any party so notified
11 shall be given an opportunity to be heard in his defense under such
12 rules and regulations as may be prescribed by the said commis-
13 sioner of agriculture, before the facts shall be certified to the proper
14 prosecuting attorney. In all prosecutions arising under the pro-
15 visions of this act, certificates of the analyst or other officer making

16 the examination, or analysis when duly sworn to by such officer,
17 shall be *prima facie* evidence of the fact or facts therein specified.

Sec. 10. Any manufacturer, importer, jobber, firm, associa-
2 tion, corporation or person who shall sell, offer or expose for sale,
3 or distribute in this state, any commercial feeding stuffs without
4 having attached thereto or furnished therewith such tax stamps, la-
5 bels or tags as required by the provisions of this act, or who shall
6 shall use the required tax stamps, labels or tags a second time, or
6-a use a counterfeit of such tax stamps, labels or tags, or who shall
7 impede, obstruct, hinder or otherwise prevent or attempt to pre-
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8 vent said commissioner of agriculture, or his authorized agent in
9 the performance of his duty in connection with the provisions of
10 this act, or who shall sell, offer, expose for sale or distribute in this
11 state any commercial feeding stuffs as defined in section one with-
12 out complying with the requirements of the provisions of this act,
13 or who shall sell, offer or expose for sale or distribute in this state
14 any commercial feeding stuffs, which contain a smaller per centum
15 of crude protein, or crude fat, or a larger per centum of crude fiber
16 than is certified to be contained therein, or who shall fail to prop-
17 erly state the specific name of each and every ingredient used in its
18 manufacture shall be deemed guilty of a violation of the provisions
19 of this act and upon conviction thereof shall be fined not more than
20 one hundred dollars for the first violation and not less than one
21 hundred dollars for each subsequent violation.

22 Any manufacturer, importer, jobber, firm, association, corpo-
23 ration or person who shall mix or adulterate any feeding stuffs with
24 any substance or substances injurious to the health of live stock or
25 poultry shall be deemed guilty of a violation of the provisions of
26 this act, and in addition to the penalty provided in this section, the
27 lot of feeding stuffs shall be subject to seizure, condemnation and
28 sale as the court may direct; the proceeds from such sale to be cov-
29 ered into the state treasury. The court may in its discretion re-
30 lease the feeding stuffs so seized when the requirements of the pro-
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31 visions of this act have been complied with, and upon payment of
32 all costs and expenses incurred by the state in any proceedings con-
33 nected with such seizure.

Sec. 11. The commissioner of agriculture is hereby empow-
2 ered to enforce the provisions of this act and to prescribe the form
3 of tags, stamps or labels to be used to show that the inspection tax

4 or fee has been paid, and to prescribe and enforce such rules and
 5 regulations relating to the sale of commercial feeding stuffs as he
 6 may deem necessary to carry into effect the full intent and mean-
 7 ing of this act.

Sec. 12. The commissioner of agriculture shall promptly de-
 2 posit with the treasurer of the state, all moneys collected under this
 3 act, and shall draw upon the same as needed to meet all expenses
 4 incurred on account of the requirements of this act, and any money
 5 remaining after all of said expenses have been paid shall be ex-
 6 pended by the commissioner in the discharge of his duties in be-
 7 half of agriculture in this state; the said commissioner shall seek
 8 to make the inspection of mixed feeding stuffs hereby intrusted
 9 to him as helpful as possible to purchasers of feeding stuffs in
 10 this state.

Sec. 13. All acts or parts of acts in conflict with the provis-
 2 ions of this act are hereby repealed.

EXTRAORDINARY SESSION.

Senate Bill No. 17

[BY MR. CARTER.]

Introduced March 5, 1915. Referred to the Committee on Fi-
 nance. Ordered printed by the Committee.

A BILL to amend and re-enact section one hundred and twenty-
 three of chapter thirty-six of the acts of one thousand nine hun-
 dred and five (serial section 1256 of the code of one thousand
 nine hundred and thirteen) so as to impose an annual license
 tax on persons, firms, associations, partnerships, and corpora-
 tions owning or holding lands, or any estate or interest therein,
 in excess of five thousand acres, and providing for the assess-
 ment and collection of such tax.

Be it enacted by the Legislature of West Virginia:

That section one hundred and twenty-three of chapter thirty-six
 of the acts of the legislature of one thousand nine hundred and five
 (serial section 1256 of the code of one thousand nine hundred and thir-
 teen) be and the same is hereby amended and re-enacted so as to read
 as follows:

Section 123. Every person, firm, association, partnership or

2 corporation, including railroad and other corporations, owning or
3 holding more than five thousand acres of land in this state, either
4 in fee, for life or for years, or owning or holding any estate in
5 any timber, coal, oil, gas or other minerals, in and upon land

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6 exceeding five thousand acres, whether such is held or owned by
7 deed, lease, contract, or otherwise, or possessing the right to mine,
8 dig or drill for such minerals, or to cut or manufacture timber, in
9 or upon such land exceeding five thousand acres, or holding any
10 option for the purchase of any land exceeding five thousand acres,
11 or for the purchase of timber or minerals, or any interest in or
12 upon land exceeding five thousand acres, shall pay an annual li-
13 cense tax of five cents for each acre in excess of five thousand acres
14 for the privilege of such owning or holding.

15 In case the fee in any such land be held or owned by one per-
16 son, firm, association, partnership or corporation, and the timber
17 and minerals in and upon the land, or any part thereof, or any
18 interest therein or option thereon, as aforesaid, be held or owned
19 by another, each and every such holder and owner of any such es-
20 tate or interest shall be severally liable to pay the license tax
21 aforesaid upon the number of acres exceeding five thousand so
22 held or owned by him.

23 Any scheme, shift or device, such as owning or holding prop-
24 erties in the names of different corporations, trustee, or trustees,
25 in which there is directly or indirectly a community of ownership
26 or interest, or any other method or manner for the purpose of
27 evading payment of the license tax hereby imposed shall not
28 avoid such tax, but the tax shall be imposed and collected upon
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29 such properties the same as though owned or held by one person,
30 firm or corporation.

31 All persons, firms, associations, partnerships and corpora-
32 tions, including foreign and other corporations heretofore author-
33 ized to hold property in this state, owning or holding lands in ex-
34 cess of five thousand acres as hereinbefore specified, shall be li-
35 able to pay such tax. Said tax shall be paid into the state treas-
36 ury on or before the first day of July of the year one thousand
37 nine hundred and fifteen, and annually thereafter on or before the
38 first day of the license tax year. Such persons, firms, associ-
39 ations, partnerships and corporations, shall, on or before the
40 first day of each license tax year, apply to the auditor of the state

41 for a license authorizing the holding of the number of acres stated
42 in such application; and it shall be the duty of the auditor to is-
43 sue to such person, firm, association, partnership or corporation
44 a license, in which shall be stated the amount of the license tax
45 paid, the number of acres on which such tax is paid and the
46 number of acres the person, firm, association, partnership or cor-
47 poration is thereby entitled to hold. In the case of firms, associ-
48 ations or partnerships, the application for such license shall be
49 signed by one or more of the members or some agent thereof with-
50 in the state; and in the case of corporations, the application shall
51 be under the hand of the president and the seal of the corporation

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52 and attested by the secretary. Hereafter a domestic corporation
53 applying for a charter and desiring to hold land in excess of five
54 thousand acres shall state in its agreement for incorporation the
55 number of acres it desires to hold and shall pay the license tax
56 thereon to the auditor for the proper proportionate part of the
57 current license tax year, in accordance with the provisions of this
58 section, before the certificate of incorporation is issued. Like-
59 wise, a foreign corporation shall state in its application for the
60 privilege to hold property and transact business in this state the
61 number of acres of land it desires to hold and shall pay to the au-
62 ditor of the state the license tax on all such holdings in excess
63 of five thousand acres for the proper proportionate part of the cur-
64 rent license tax year before the certificate of authority is issued.
65 If any such person, firm, association, partnership or corporation
66 liable to the tax hereby imposed shall desire to increase the num-
67 ber of acres they may hold, at any time during the license year,
68 they shall make application to the auditor for permission to do so,
69 and pay the proper proportionate part of the license tax for the
70 current license tax year; or if any person, firm, association, part-
71 nership or corporation not subject to such tax, shall desire permis-
72 sion to hold more than five thousand acres of land, as aforesaid, at
73 any time during the pendency of the license year, they shall make
74 like application, and pay the license tax as aforesaid.

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75 If any person, firm, association or corporation, shall fail to
76 comply with any of the provisions of this section, the same shall
77 be liable to a fine of not less than twenty-five dollars and be li-
78 able to pay such license tax due the state with a penalty of ten
79 per cent on the total amount due and be liable to all the provis-

80 ions of sections one hundred and thirty-six and one hundred and
81 thirty-seven of this chapter, so far as the same are applicable.

82 The auditor shall report to the state tax commissioner all
83 licenses issued hereunder; and said tax commissioner is hereby au-
84 thorized, and it shall be his duty, to ascertain by investigation
85 whether any person, firm, association, partnership or corpora-
86 tion owns or holds lands as aforesaid in excess of five thousand
87 acres without paying the proper license tax thereon; and in ascer-
88 taining such facts, said tax commissioner may, if he shall deem
89 it necessary, cause a survey to be made of any such tract or tracts
90 of land for such purpose. Clerks of county courts, assessors, and
91 other county officers shall furnish to said tax commissioner all in-
92 formation which may be required by him for the purposes of this
93 section and the tax commissioner may prescribe and furnish
94 blanks and forms wherein such reports shall be made. Any coun-
95 ty clerk, assessor or other county officer who shall fail or refuse
96 to make any such report or furnish any such information requir-
97 ed by the tax commissioner, shall be subject to a fine not to ex-

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98 ceed one hundred dollars for each offense. The tax commissioner
99 shall proceed to assess against any delinquent person, firm, asso-
100 ciation, partnership or corporation the proper license tax herein
101 provided for and shall collect the same under the provisions of
102 section 1256 of the code of one thousand nine hundred and
103 thirteen.

104 If the license tax imposed by this section shall remain in ar-
105 rears and unpaid for sixty days after the same is due, the state
106 shall have a lien therefor prior to all other liens or claims, ex-
107 cept for taxes, on the property of the person, firm, association,
107 partnership or corporation in default. Upon notice from the
108 auditor or state tax commissioner, the attorney general shall
109 proceed to enforce such lien by suit in the proper county or
110 counties and to collect such unpaid license tax in the same manner
111 as now provided for the enforcement of other liens in favor of
112 the state; or a certified statement of such tax in arrears may
113 be placed in the hands of any sheriff and levied as execution on
114 the property of such person, firm, association, partnership or
115 corporation in default, and sale under such levy may be made as
116 provided for by law under an execution upon a judgment in
117 favor of the state.

EXTRAORDINARY SESSION.

Senate Bill No. 16

[BY MR. GODBEY.]

Introduced March 5, 1915. Referred to the Committee on Finance. Ordered printed by the Committee.

A BILL establishing a state athletic commission, regulating boxing and sparring in the state of West Virginia, and repealing section twenty-seven-a of chapter one hundred and forty-four of the code of West Virginia, one thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a board to be known as the state athletic commission of West Virginia. Within thirty days after this act takes effect the governor shall appoint three persons to be members of such commission, one of whom shall serve until January first, one thousand nine hundred and seventeen, one until January first, one thousand nine hundred and eighteen, and one until January first, one thousand nine hundred and nineteen. At the expiration of the term of each member his successor shall be appointed for a term of four years. In the event of a vacancy in said board, said vacancy shall likewise be filled by appointment of the governor. Any two members of the commission shall constitute a quorum for the exercise of the power or authority conferred upon it. The members of the commission

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shall at the first meeting after their appointment elect one of their number chairman of the commission and another of their number secretary of the commission, shall adopt a seal for the commission and shall make such rules for the administration of their office, not inconsistent herewith, as they may deem expedient; and they may hereafter amend or abrogate such rules. The concurrence of at least two commissioners shall be necessary to render a choice or decision by the commission.

Sec. 2. The officers of the commission may be changed at pleasure by the said commission. It shall be the duty of the secretary to keep a full and true record of all proceedings of said commission, to preserve all its books, documents and papers, to prepare for service such notices and other papers as may be re-

6 required of him by the commission, and to perform such other du-
7 ties as the commission may prescribe; and he may, under direction
8 of the commission, issue subpoenas for the attendance of witnesses
9 before the commission with the same effect as if they were issued
10 in an action in any circuit court of the state, and may administer
11 oaths in all matters pertaining to the duties of his office or con-
12 nected with the administration of the affairs of the commis-
13 sion.

14 Disobedience of such a subpoena and false swearing before
15 such secretary shall be attended by the same consequences and be
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16 subject to the same penalties as if such disobedience or false
17 swearing occurred in an action in any circuit court of the state.
18 The commission shall make to the Legislature bi-ennial reports
19 of its proceedings for the two years ending with the last day of
20 the preceding December, and may submit, with such report, such
21 recommendations pertaining to its affairs as to it shall seem ad-
22 missible.

Sec. 3. The commission shall retain out of all moneys
2 received by it, as hereinafter provided, the sum of four thousand
3 dollars, which sum shall cover all necessary traveling
4 and other necessary expenses of the members of the commission and
5 any and all compensation to the secretary and the other members
6 of the said commission; all moneys so received by said commission
7 in excess of said sum of four thousand dollars shall be by the sec-
8 retary of said commission paid over to the treasurer together with
9 the full financial statement of all moneys received and expended.
10 and the secretary of the commission shall annually make report
11 of the fiscal affairs of the commission for the preceding year to the
12 treasurer of the state of West Virginia.

Sec. 4. The commission may designate as its official head-
2 quarters the residence or place of business of any one of its mem-
3 bers, or may, if it chooses, maintain an office; but the expense
4 of said office, in case such is maintained, shall also be paid out of
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5 the sum of four thousand dollars provided for in section three.

Sec. 5. The commission shall have and hereby is vested with
2 the sole direction, management and control of and jurisdiction
3 over all boxing and sparring matches and exhibitions to be con-
4 ducted, held or given within the state by any club, corporation or

5 association; and no boxing or sparring match or exhibition shall
6 be conducted, held or given within the said state except pursuant
7 to its authority and held in provision in accordance with this
8 act. The commission may, in its discretion, issue and, at its
9 pleasure, revoke the license to conduct, hold or give boxing and
10 sparring matches and exhibitions to any club, corporation or asso-
11 ciation which shall at the time application therefor is made own
12 or hold a lease for at least one year upon the building wherein
13 it may be proposed to conduct, hold or give such boxing or sparring
14 match or exhibition; but no such license shall be granted, and no
15 such boxing or sparring exhibition held, in any place other than
16 a city or municipality having a population of fifteen thousand or
17 more. Every license shall be subject to such rules and regula-
18 tions and amendments thereto as the commission may prescribe.
19 Every application for a license, as herein provided for, shall be
20 in writing and shall be addressed to the commission and shall
21 be verified by some officer of the club, corporation or association
22 on whose behalf the application may be made. It shall contain
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23 a recital of such facts as, under the provisions hereof, will show
24 the applicant entitled to receive a license and, in addition thereto,
25 such other facts and recitals as the commission may by rule require
26 to be shown. But no license shall be granted to any club, cor-
27 poration or association which shall have as a member, director,
28 partner or stockholder any person other than a resident of the
29 state of West Virginia. Upon the issuance of such license by
30 the commission, the applicant shall present such license to the
31 clerk of the county court of the county in which such applicant
32 intends to conduct a club, whereupon the said clerk of the county
33 court shall issue to the applicant a license to conduct a boxing
34 club, which license shall expire on the thirtieth day of June next
35 succeeding the date of such license. For such license the appli-
36 cant shall pay a state license tax of five hundred dollars for one
37 year, or a proportionate part thereof for shorter periods. should
38 such license not be granted at the beginning of the fiscal year,
39 payable and collectible as are other license taxes. No municipal
40 corporation shall impose any license tax on any such boxing or
41 sparring club, notwithstanding the provisions of any section of
42 the code respecting municipal taxes and licenses. The granting
43 of such license to such club by the county clerk, or the holding

44 of such license by such club, individual or association, shall not
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45 prevent the commission from cancelling or revoking the license to
46 conduct such club, as hereinbefore provided.

Sec. 6. All buldings or structures used or intended to be
2 used for the purpose of this act shall be properly ventilated and
3 provided with fire exits and fire escapes, if there need be, and
4 in all manner conform to the laws, ordinances and regulations
5 pertaining to buildings in the city, town or village where situated.
6 Where a part of a building or structure is used for the purpose
7 set forth in this act, this section shall apply in the same manner.

Sec. 7. No boxing or sparring match or exhibition shall
2 be more than ten rounds of three minutes each in length, with
3 intermissions of one minute each between rounds; and the con-
4 testants shall wear, during such contests, gloves weighing at least
5 six ounces.

Sec. 8. Any club, corporation or association which may
2 conduct, hold, give, or participate in any sham or fake boxing
3 or sparring match or exhibition shall thereby forfeit its license
4 issued in accordance with the provisions of this act, which shall
5 thereupon be, by the commission, cancelled and declared void;
6 and it shall not therefor be entitled to receive another such
7 license or any license pursuant to the provisions of this act, nor
8 shall any license thereafter be granted to any club, corporation or
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9 association including among its members, directors, partners or
10 stockholders any member, director, partner or stockholder of the
11 club, corporation or association whose license has been so for-
12 feited.

13 Any contestant who shall participate in any sham or fake
14 boxing or sparring match or exhibition, and any other person
15 whatsoever who shall in any manner be connected with the ar-
16 ranging, planning, holding, conducting or giving any such sham
17 or fake boxing or sparring match or exhibition, shall be guilty of
18 a misdemeanor, and shall, upon conviction thereof, be fined not
19 less than five hundred dollars nor more than one thousand dol-
20 lars and be confined in jail for a period of not less than six months
21 nor more than one year; and any contestant so participating shall
22 be further totally disqualified from further admission or partici-

23 pation in any boxing contest held or given by any club, corporation
24 or association duly licensed for said purposes.

Sec. 9. Every club, corporation or association which may
2 hold or exercise any of the privileges conferred by this act shall,
3 within twenty-four hours after the determination of every con-
4 test, furnish to the commission a written report, duly verified
5 by one of its officers, showing the number of tickets sold for such
6 contest and the amount of the gross proceeds thereof and such oth-
7 er matters as the commission may prescribe, and shall also, within
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8 the said time pay to the secretary of the commission a tax of
9 five per centum of its total gross receipts from the sale of tickets
10 of admission to such boxing or sparring match or exhibition.
11 Before any license shall be granted to any club, corporation or
12 association to conduct, hold or give any boxing or sparring match
13 or exhibition, such applicant therefor shall execute and file with
14 the commission a bond in the sum of ten thousand dollars
15 to be approved as to form and the sufficiency of the
16 authorities thereon by the said commission, conditioned for the
17 payment of the tax hereby imposed.

Sec. 10. Whenever any such club, corporation or association
2 shall fail to make a report of any contest at the time prescribed
3 by this act, or whenever such report is unsatisfactory to the com-
4 mission, the commission or any member thereof may examine or
5 cause to be examined the books and records of such club, cor-
6 poration or association, and subpoena and examine under oath
7 its officers and other persons as witnesses for the purpose of de-
8 termining the total amount of its gross receipts for any contest
9 and the amount of tax due in pursuance of the provisions of
10 this act, and upon such examination and as a result thereof the
11 commission may fix and determine the tax. In case of the default
12 in the payment of any tax so ascertained to be due, together with
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13 the expense incurred in making such examination, for a period
14-15 of twenty days after notice to such delinquent club, corporation
16 or association of the amount at which the same may be fixed by the
17 said commission, such delinquent club shall, *ipso facto*, forfeit its
18 license and shall be thereby disqualified from receiving any new li-
19 cense or any renewal of license; and it shall, in addition, forfeit and

20 pay the sum of five hundred dollars, which may be recovered by
21 the said commission by suit in any circuit court of the state.

Sec. 11. Each member of the commission shall have the
2 privilege of being present at all exhibitions and matches without
3 charge therefor, and shall, when present, see that the rules are
4 strictly observed, and may be present at the counting of the
5 gross receipts; in the event that no member of the commission,
6 can be present, the commission may appoint an inspector to be
7 present representing said commission, which inspector shall have
8 the same privileges hereby conferred upon a member of the com-
9 mission; and said inspector shall immediately mail to the com-
10 mission the official box office statement received by him from the
11 officers of the club.

Sec. 12. The chief official of the boxing match or exhibition
2 shall be the referee. The referee shall be appointed by the com-
3 mission, and shall receive from the commission a card authoriz-
4 ing him to act as such referee, and no club shall employ or permit

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5 any one to act as referee except one holding such card of authoriza-
6 tion from the commission. The referee shall have general super-
7 vision and control over the match or exhibition, and shall take
8 his position within the ring.

Sec. 13. In any boxing or sparring match or exhibition, each
2 contestant must be examined prior to entering the ring by a phy-
3 sician who has been in active practice in the state of West Vir-
4 ginia for not less than five years. The physician shall certify in
5 writing, over his signature, as to contestant's physical condition to
6 engage in such contest. And said physician shall be in attendance
7 during the contest, prepared to deal with any emergency which
8 may arise. Said physician shall file such report of examination
9 with the commission within the period of twenty-four hours after
10 the contest. But in the event that said physician is convinced of
11 the unfitness of either of the contestants to enter the contest he
12 shall at once certify such opinion to the club, corporation or associa-
13 tion under whose management the contest is conducted, and it shall
14 thereupon be unlawful for said club, corporation or association
15 to proceed with said contest.

Sec. 14. No boxer shall be permitted to contest against an
2 opponent ten pounds heavier than himself when the weight of
3 either contestant is less than one hundred and fifty pounds.

Sec. 15. All persons attending a boxing or sparring match
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2 or exhibition shall behave in a gentlemanly and sportsmanlike
3 manner. Any person guilty of disorder when in attendance at
4 any such exhibition shall be guilty of a misdemeanor and shall,
5 upon conviction thereof before any justice of the county in which
6 the offense was committed be fined not less than fifty dollars nor
7 more than one hundred dollars.

Sec. 16. It shall be unlawful for any person attending a
2 boxing or sparring match or exhibition to carry with him into the
3 place where such boxing or sparring match or exhibition is held
4 any intoxicating liquor, and it shall further be unlawful for any
5 club, corporation or association to permit or allow any intoxicat-
6 ing liquor to be carried upon its premises on the day or night of
7 any contest, or to permit any person under the influence of liquor
8 to attend any such boxing or sparring match or exhibition.

Sec. 17. Any person who shall voluntarily engage in a prize
2 fight or a pugilistic encounter with another person for money or
3 for other things of value, or for any championship, or to see which
4 any admission fee is charged, either directly or indirectly in this
5 state, except when such prize fight or pugilistic encounter is held
6 in compliance with this statute, shall be deemed guilty of felony,
7 and upon conviction shall be fined not more than one thousand,

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8 and be imprisoned in the penitentiary not less than one nor more
9 than ten years.

10 If any person act as second, or trainer, or timekeeper, or ref-
11 eree, or umpire, to any person so fighting, or if any person assist,
12 or in any way abet another to fight a prize fight, or to engage in
13 a pugilistic encounter, in this state, except when such prize fight
14 or pugilistic encounter is held in compliance with the provisions
15 of the statute, he shall be deemed guilty of a felony and upon
16 conviction thereof shall be fined not more than five hundred dol-
17 lars, and be imprisoned in the penitentiary not less than one nor
18 more than five years. By the term "prize fight or pugilistic encoun-
19 ter" as used in this section is meant any voluntary fight or personal
20 encounter by blows, by means of the fists or otherwise, whether
21 with or without gloves, between two men for money, or for a
22 prize of any character, or for any championship, or for anything
23 of value, or upon the result of which any money or anything of

24 value is bet or wagered with the knowledge of, or for the benefit
 25 of the parties engaged in the fight or pugilistic encounter, or for
 26 which any admission fee is charged, either directly or indirectly.

Sec. 18. If any person shall violate any provision of this
 2 act, for which violation a penalty is not here expressly provided,
 3 he shall be guilty of a misdemeanor, and upon conviction thereof
 4 shall be fined not less than fifty dollars nor more than five hun-
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5 dred dollars, and may, at the discretion of the court, in addition
 6 thereto, be confined in jail for not less than six months nor more
 7 than two years.

Sec. 19. Nothing in this act contained shall be construed
 2 to render unlawful a boxing or sparring contest in any gymnasium,
 3 athletic club, Young Men's Christian Association or the like when
 4 such boxing or sparring contest is not for money or other thing
 5 of value and no admission is charged to see same.

Sec. 20. That section twenty-seven-a of chapter one hundred
 2 and forty-four of the code of West Virginia and all other acts
 3 and parts of acts inconsistent with this act be and the same are
 4 hereby repealed.

EXTRAORDINARY SESSION.

Senate Bill No. 13

[BY MR. GODBEX.]

Introduced March 4, 1915. Referred to the Committee on Rail-
 roads. Ordered printed by the Committee.

A BILL to make gas pipe lines public service corporations and
 common carriers within this state.

Be it enacted by the Legislature of West Virginia:

Section 1. That every person, firm or corporation, own-
 2 ing or operating a gas pipe line within this state for the trans-
 3 portation and distribution of natural gas to consumers, is here-
 4 by declared to be, and is hereby made, a public service corpora-
 5 tion and common carrier, for the purpose of receiving, transport-
 6 ing and delivering natural gas for others for compensation or
 7 hire; and it is hereby made the duty of every such owner or
 8 operator to receive, transport and deliver natural gas belonging

9 to another or others, when the same is offered for transportation
10 and delivery, at rates of compensation to be fixed as provided in
11 the next succeeding section of this act; and in addition to all
12 other remedies provided by law, the writ of mandamus will lie
13 to compel compliance herewith.

Sec. 2. The pipe lines of every such owner or operator
2 shall be to open to the public use for transportation of natural

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3 gas, and all persons desiring to transport such gas through such
4 pipe lines shall have the absolute right upon equal terms to such
5 transportation in the order of application therefor, on comply-
6 ing with such general rules and regulations as shall be pre-
7 scribed by the public service commission of this state as to such
7-a transportation and delivery; but no application for such trans-
8 portation shall be valid beyond or for a greater quantity of gas
9 than the applicant shall then own and have ready for delivery
10 for transportation to such owner or operator; and every such
11 owner or operator shall be liable as common carriers therefor
12 from the time the gas is delivered for transportation until the
13 same has been transported to the place of consignment and de-
14 livered to the consignee; and all rates and charges of every de-
15 scription, for or on account of or in any manner connected with
16 the transportation and delivery of any natural gas as herein pro-
17 vided shall be fixed by said public service commission by gen-
18 eral rules and regulations, which shall be applicable to all per-
19 sons without discrimination in favor of one person as against
20 another person, who shall transport any such gas through such
21 pipe line or pipe lines.

Sec. 3. The public service commission of this state is here-
2 by authorized and empowered to enforce the provisions of this
3 act, and to fully carry out the same, the commission shall formu-
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4 late and prescribe such rules and regulations in conformity
5 herewith as it shall deem necessary, and shall employ the requi-
6 site help including gas experts; appeals may be allowed from
7 the decision of the commission to any court having jurisdiction
8 as now provided by law.

Sec. 4. Any such owner or operator refusing to receive,
2 transport or deliver natural gas when offered for transportation
3 and delivery as provided herein, shall be fined not less than one
4 hundred nor more than one thousand dollars, and each refusal

5 shall constitute a separate offense; and in addition thereto shall
6 be liable to the owner of such gas and to all other persons for
7 all damages such refusal or refusals shall cause.

EXTRAORDINARY SESSION.

Senate Bill No. 11

[BY MR. GOODYKOONTZ]

Introduced March 4, 1915. Referred to the Committee on Railroads. Printed by order of the Committee.

A BILL providing for the equipping, keeping and maintaining of and use of electric or other headlights on engines used on railroads of fifty miles or more in length operated in the state of West Virginia, and providing for a penalty for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. That every company, corporation, lessee, manager or receiver owning or operating a railroad of fifty miles or more in length in this state, shall equip and maintain and shall use between sunset and sunrise upon each and every locomotive being operated over its lines in this state, electric or other headlights of at least two hundred and fifty candle power measured without the aid of a reflector. All engines used in regular "back-up" service, outside of yard limits, shall, in addition to such headlights, be provided with a rear light, of the character herein provided, to be equipped, used and maintained in manner aforesaid. This act, however, shall not apply to yard engines used in switching and in making up trains.

Sec. 2. That any company, corporation, lessee, manager or receiver owning or operating a railroad in violation of this act shall be guilty of a misdemeanor and shall for such violation be fined not less than one hundred dollars nor more than five hundred dollars for each offense, and that for each twenty-four hours failure or delay to comply with the provisions of this act the same shall constitute a separate and distinct offense; and *provided*, that the public service commission be, and it is hereby upon hearing, empowered to increase or decrease the candle power of such headlights and to regulate the use of the same in

11 the interest of safety and efficiency; and, *provided, further*, that
12 every such company, corporation, lessee, manager or receiver own-
13 ing or operating such railroad shall, with the approval of said com-
14 mission, promulgate reasonable rules and regulations respecting
15 the use of such headlights.

EXTRAORDINARY SESSION.

Senate Bill No. 15

[BY MR. GOODYKOONTZ]

Introduced March 4, 1915. Referred to the Committee on the
Judiciary. Ordered printed by the Committee.

A BILL to amend and re-enact sub-section six-*a* (6*a*) of chapter
forty-seven of the acts of the legislature of West Virginia of one
thousand nine hundred and three: (serial section 3509—code
1913); relating to game and fish.

Be it enacted by the Legislature of West Virginia:

That sub-section six-*a* (6-*a*) of chapter forty-seven of the
acts of the legislature of West Virginia of one thousand nine hun-
dred and three (serial section 3509—code 1913), be amended and
re-enacted so as to read as follows:

Section 6-*a*. It shall be unlawful for any person, firm or
2 corporation, to throw in, or allow to enter, any stream or water
3 course, in this state, saw dust or any other matter deleterious to
4 the propagation of fish. Any person, firm or corporation violating
5 any of the provisions of this section shall be guilty of a misde-
6 meanor, and, upon conviction thereof, fined not less than twenty-
7 five dollars, nor more than one hundred dollars for each and
8 every offense; *provided*, that before any proceeding may be in-
9 stituted under this section against any person, firm or corpora-

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10 tion operating a coal mine, or saw mill, or conducting any manu-
11 facturing business, a report shall be made by any person or officer
12 about to institute such proceeding to the forest, game and fish
13 warden setting up the facts and conditions known to such per-
14 son or officer and by him thought to constitute a violation of the
15 provisions of this section; whereupon it shall be the duty of the
16 forest, game and fish warden, either in person or by one or more

17 of his legally appointed deputies, to make a careful examination
 18 into the conditions complained of, with a view of ascertaining
 19 whether or not injury is being done to the fish in or to the water
 20 of the stream or streams affected by said conditions. And after
 21 such examinations the forest, game and fish warden shall, if the
 22 conditions warrant, may institute proceedings against such per-
 23 son, firm or corporation for the violation of any of the provisions
 24 of this section; and no proceedings therefor shall be otherwise
 25 instituted.

26 All acts and parts of acts coming within the purview hereof
 27 and inconsistent herewith are hereby repealed.

EXTRAORDINARY SESSION.

Senate Bill No. 7

(BY MR. ROSENBLOOM.)

Introduced March 3, 1915. Reference to a committee dispensed with: on first reading; printed by order of the Senate.

A BILL to amend and re-enact serial section one thousand one hundred and eighty-two of the code of one thousand nine hundred and thirteen relating to the assessment of taxes for state and state school purposes.

Be it enacted by the Legislature of West Virginia:

That section serial one thousand one hundred and eighty-two be amended and re-enacted so as to read as follows:

Section 1182. On all real and personal property not exempt
 2 from taxation, for the year one thousand nine hundred and fifteen,
 3 and each year thereafter, not to exceed 15 cents on the one
 4 hundred dollars valuation, for state and state school taxes, shall
 5 be imposed upon real and personal property; *provided*, that the
 6 board of public works for the year one thousand nine hundred
 7 and fifteen, and thereafter, may reduce and fix the amount of the
 8 levy for state and state school purposes to any amount not less
 9 than one cent on each one hundred dollars valuation; and *pro-*
 10 *vided, further*, that said board, in its discretion, for the year one
 11 thousand nine hundred and fifteen and thereafter, may levy the
 12 whole of fifteen cents for state purposes, or may apportion the

13 said fifteen cents levy to the state school fund; *provided, further*,

14 that the amount apportioned to the distributable school fund from
15 all sources shall not be less than seven hundred and fifty thousand
16 dollars annually.

17 Any act of the board of public works in fixing the levy shall
18 be certified by the president and secretary of said board to the
19 clerk of the county court, the assessor and the sheriff of every
20 county not later than the first day of August of the year for which
21 said levy is to apply; and it shall be the duty of said officers to
22 extend the levy, so fixed by the board of public works, on the
23 personal property books, and the land books of their county

24 All acts and parts of acts inconsistent with the provisions
25 of this act are hereby repealed.

[EXTRAORDINARY SESSION.]

Senate Bill No. 3

(By McCrum.)

Introduced March 3, 1915. Referred to the Committee on Roads and Navigation. Ordered printed by the Committee.

A BILL to amend and re-enact section two of chapter sixty-six of the acts of one thousand nine hundred and nine, chapter forty of the acts of one thousand nine hundred and thirteen, relating to the rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts and municipal corporations.

Be it enacted by the Legislature of West Virginia:

That section two of chapter sixty-six of the acts of one thousand nine hundred and nine be and the same is hereby amended and re-enacted so as to read as follows:

Section 2. At such sessions the county court shall ascertain the condition of the fiscal affairs of the county, and make up an itemized statement thereof, which shall set forth in detail:

(a) The amount due and the amount that will become due and collectable from every source, except from the levy of taxes to be made for the year, during the current fiscal year, to the county as a whole and to the road fund and any other fund of any district of the county;

(b) The debts and demands owed by the county as a whole

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10 and the debts and demands payable out of the road or other fund
11 of any district thereof, including debts and demands that will be-
12 come due and payable during the year by the county as a whole
13 or out of the funds of any district thereof, including interest on
14 any indebtedness, funded or bonded, or otherwise;

15 (c) All other expenditures under the several heads of ex-
16 penditures to be made and payable out of the levy of the current
17 fiscal year, whether by the county as a whole or out of the road
18 fund or other fund of any district thereof, including cost of col-
19 lection of taxes and claims, and proper allowance for delinquent
20 taxes and contingencies.

21 The said statement shall also set forth the total amount nec-
22 essary to be raised by the levy of taxes for the current year, the
23 assessed value of the property assessed by the board of public
24 works, the rate of such levy proposed on the property as a whole,
25 and on the property in each district for district funds, and on the
26 property in each municipal corporation. A copy of such state-
27 ment duly certified by the clerk of the court, shall be published
28 twice (at least one week intervening between publications) in two
29 newspapers of general circulation published in the county, and of
30 opposite politics. If there be but one newspaper published in the
31 county, the publication shall be made therein. The session shall
32 then stand adjourned until the fourth Tuesday in August, at
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33 which time it shall convene; and it shall then be the duty of said
34 court to hear and consider any objections made orally or in writ-
35 ing, by the prosecuting attorney, by the state tax commissioner
36 or his representative, or by any taxpayer of the county, to said
37 estimate and proposed levy, or item thereof. It shall be the duty
38 of the court to enter an order of record showing the objections so
39 made, setting forth the reasons and grounds for such objections.
40 But the failure of any officer or taxpayer to offer objections as
41 herein provided, shall not preclude him from pursuing any legal
42 remedy, necessary to correct any levy made by any tribunal named
43 in this act. After said objections have been made and heard, the
44 court shall thereupon reconsider the proposed original estimate
45 and proposed rate of levy; and if the objections thereto or any
46 part thereof shall appear to be well taken, the court shall correct
47 the same accordingly, and it shall thereupon be approved, and
48 when approved, shall, with the order approving it, be entered by

49 the clerk in the proper record book. The county court shall there-
50 upon levy so many cents on every one hundred dollars of valuation
51 of the taxable property in the county, according to the last assess-
52 ment thereof, as will produce the amount shown by the statement
53 approved necessary to be raised for county purposes during the
54 fiscal year, and it shall levy so many cents on every one hundred
55 dollars of valuation of the taxable property in any district of the

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56 county, according to the last assessment thereof, as will produce
57 the amount shown by said statement necessary to be raised by taxa-
58 tion upon the property of said district during the fiscal year;
59 *provided, first*, that the aggregate of the levies so made for county
60 purposes and district purposes shall not exceed the sum of thirty
61 cents on each one hundred dollars of said valuation; *provided*.
62 *further*, that the county court of any county may, in addition to
63 the levies hereinbefore provided for, lay a levy on all the taxable
64 property of any district not to exceed ten cents upon every one
65 hundred dollars valuation thereof, and the amount so raised shall
66 constitute a permanent district road fund to be applied upon the
67 main traveled highways of the district in permanent improve-
68 ments which shall include reducing bad grades, relocation to
69 eliminate bad grades, construction of permanent culverts and
70 drains on properly located roads, and placing of metallic or hard
71 surface and repairs thereto after the same has been placed. Said
72 fund shall only be expended under competent supervision; *pro-*
73 *vided, further*, that the county court of any county, in addition to
74 the general county and district levies herein provided, and the
75 special district levy hereinbefore authorized, may lay a special
76 permanent county road levy on all the taxable property of the
77 county, according to the last assessment thereof, to be known as
78 the main county road fund, which fund shall be used in construc-

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80 tion, revising, location, and permanently improving the main
81 county roads of any county, and the bridges and culverts
81-a thereon, including the elimination of "breakers," and the
81-b maintenance in a permanent manner, the main county
81-c roads of any county. Such roads to be located under com-
82 petent supervision and no bridge or culvert to be constructed until
83 said roads are properly located and such road, when located, shall
84 be located to connect with a similarly located road in another
85 county; *provided*, that in any county where the aggregate valua-

tion of the taxable property in any year is less than two and one-half times that of the year one thousand nine hundred and four, and the county court is of the opinion that the maximum rate of levy herein named is insufficient, with other funds and revenues, for all county and district road purposes, and is further of opinion that it is not expedient to submit to the voters the question of additional levy, as provided in section five, or of special levy, as provided in section six, the county court may, for any such year, lay a levy in cents on each one hundred dollars of such taxable property of such portion of one hundred and four cents as the aggregate of the taxable property in the year one thousand nine hundred and four bears to the aggregate thereof in the year for which such levy is to be made; as, for instance, to illustrate: In any such case, where the said aggregate in such year is double that

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of the year one thousand nine hundred and four, the maximum levy in any such county and district thereof for such year shall not exceed fifty-two cents on each one hundred dollars of said valuation for said purposes.

[EXTRAORDINARY SESSION.]

Senate Bill No. 5

(BY MR. WHITE.)

Introduced March 3, 1915. Referred to the Committee on the Judiciary. Ordered printed by the Committee.

A Bill to amend and re-enact section one hundred and twenty-eight of chapter thirty-two of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 128. Every non-resident corporation shall pay an annual license tax on its charter based on its authorized capital stock, as follows:

If the authorized capital stock be ten thousand dollars or less, twenty dollars.

If more than ten thousand dollars and not more than twenty-five thousand dollars, thirty dollars.

If more than twenty-five thousand dollars and not more than fifty thousand dollars, forty-five dollars.

10 If more than fifty thousand dollars and not more than
11 seventy-five thousand dollars, seventy-five dollars.

12 If more than seventy-five thousand dollars and not more than
13 one hundred thousand dollars, eighty dollars.

14 If more than one hundred thousand dollars and not more
15 than one million dollars, eighty dollars, and an additional forty
16 cents on each one thousand dollars, or fraction thereof, in ex-
17 cess of one hundred thousand dollars.

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18 If more than one million dollars and not more than two
19 millions dollars, four hundred and forty dollars, and an addi-
20 tional thirty cents on each and every one thousand dollars, or
21 fraction thereof, in excess of one million dollars.

22 If more than two million dollars and not more than four
23 million dollars, seven hundred and forty dollars, and an addi-
24 tional fifteen cents on each and every one thousand dollars, or
52 fraction thereof, in excess of two million dollars.

26 If more than four million dollars, eleven hundred dollars,
27 and an additional eighty dollars on each and every one million
28 dollars, or fraction thereof, in excess of four million dollars.

EXTRAORDINARY SESSION.

Senate Bill No. 12

[BY MR. GREGORY.]

Introduced March 4, 1915. Referred to the Committee on Finance.
Printed by order of the Committee.

A BILL imposing a tax on net income of persons, firms, copartner-
ships and corporations and providing for the ascertainment, as-
sessment and collection thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be assessed, levied, collected, and paid
2 a tax upon incomes received during the year ending December
3 thirty-one, one thousand nine hundred and fifteen, and upon in-
4 comes received annually thereafter, by such persons and from such
5 sources as hereinafter described.

Sec. 2. (1) The term "person", as used in this act, shall
2 mean and include any individual, firm, copartnership, and every

3 corporation, joint stock company or association organized for profit
4 and having a capital stock represented by shares, unless otherwise
5 expressly stated.

6 (2) The term "income", as used in this act, shall include:

7 (a) All rent of real estate, including the estimated rental of
8 residence property occupied by the owner thereof.

9 (b) All dividends derived from stocks and all interest de-
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10 rived from money loaned or invested in notes, mortgages, bonds,
11 or other evidence of debt of any kind whatsoever.

12 (c) All wages, salaries or fees derived from services; *pro-*
13 *vided*, that compensation to public officers for public service shall
14 not be computed as a part of the taxable income in such cases where
15 the taxation thereof would be repugnant to the constitution.

16 (d) All profits derived from the transaction of business or
17 from the sale of real estate or other capital assets; *provided*, that
18 of the profits derived from the sale of real estate or other capital
19 assets acquired previous to January one, one thousand nine hun-
20 dred and fifteen, only such proportion shall be taxable as the time
21 between January one, one thousand nine hundred and fifteen, and
22 the date of sale bears to the entire time between the date of ac-
23 quisition and the date of sale.

24 (e) All royalties derived from mines, wells, or the posses-
25 sion or use of franchises or legalized privileges of any kind.

25-a (f) And all other gains, profits or income of any kind de-
26 rived from any source whatever except such as hereinafter ex-
27 empted.

28 (3) The tax shall be assessed, levied and collected upon all
29 income, not hereinafter exempted, received by every person resid-
30 ing within the state, and by every non-resident of the state, upon
31 such income as is derived from property located or business trans-
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32 acted within the state. In determining taxable income, rentals,
33 royalties, and gains or profits from the operation of any farm,
34 mine, well, or quarry shall follow the situs of the property from
35 which derived, and income from personal service and from land
36 contracts, mortgages, stocks, bonds and securities shall follow the
37 residence of the recipient. With respect to other income, persons
38 engaged in business within and without the state shall be taxed
39 only upon such income as is derived from business transacted and
40 property located within the state, which may be determined by an

41 allocation and separate accounting for such income when made in
42 form and manner prescribed by the state auditor.

Sec. 3. Every corporation, joint stock company or associa-
2 tion shall be allowed to make from its gross income the following
3 deductions:

4 (a) Payments made within the year for wages of employes
5 and salaries of officers if reasonable in amount, for services actu-
6 ally rendered in producing such income; *provided*, there be report-
7 ed the name, address and amount paid each such employee or offi-
8 cer residing within this state to whom a compensation of seven
9 hundred dollars or more shall have been paid during the assess-
10 ment year.

11 (b) Other ordinary and necessary expenses actually paid
12 within the year out of income in the maintenance and operation of

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13 its business and property, including a reasonable allowance for de-
14 preciation by use, wear and tear of property from which the income
15 is derived and in the case of mines, wells and quarries an allow-
16 ance for depletion of minerals, oil, gas and other natural deposits
17 on the basis of their actual original cost in cash or the equivalent
18 of cash and including also interest paid on its bonded or other in-
19 debtedness to an amount of such indebtedness not exceeding its
20 paid up capital stock outstanding at the close of the year; *provided*
21 that the amount of such capital stock shall in no case exceed the
22 clear value of its assets over and above all indebtedness and liabili-
23 ties.

24 (c) Losses actually sustained within the year and not com-
25 pensated for by insurance or otherwise.

26 (d) Sums paid by such person within the year for taxes im-
27 posed by any state of this union or subdivision thereof, or by the
28 United States, or any territory or possession of the United States,
29 upon the source from which the income taxed by this act is de-
30 rived.

31 (e) Dividends or income received within the year from
32 stocks or interest in any copartnership, corporation, joint stock
33 company or association, the income of which shall have been as-
34 sessed under the provisions of this act; *provided*, that when only
35 part of the income of the copartnership, corporation, joint stock
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36 company or association from which such dividend or income was re-
37 ceived shall have been assessed under this act only a corresponding

38 part of such dividend or income shall be deducted; *provided, fur-*
39 *ther*, that such copartnership, corporation, joint stock company or
40 association report the name and address of each person owning
41 stocks or having such interest and the amount of dividends or in-
42 come paid such person during the assessment year.

43 (f) Interest received from bonds or other securities exempt
44 from taxation under the laws of the United States.

45 (g) Dividends received from state banks, national banks,
46 mutual savings banks and trust companies subject to tax hereun-
47 der.

Sec. 4. Persons other than corporations, joint stock com-
2 panies or associations, in reporting incomes for purposes of tax-
3 ation shall be allowed the following deductions:

4 (a) Payments made within the year for wages of em-
5 ployees and a reasonable allowance for services of co-partners
6 or members of a firm actually rendered and producing such
7 income. But no deductions shall be made for any amount paid
8 for personal services unless there be reported the name and ad-
9 dress and amount paid each such employee or copartner to
10 whom a sum of seven hundred dollars or more shall have been
11 paid during the assessment year. The ordinary and necessary

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12 expenses actually paid within the year in carrying on the pro-
13 fession, occupation or business from which the income is de-
14 rived, including a reasonable allowance for depreciation by use,
15 wear and tear of the property from which the income is derived,
16 and in the case of mines, wells and quarries an allowance for
17 depletion of minerals, oil, gas and other natural deposits on the
18 basis of their actual original cost in cash or the equivalent of
19 cash.

20 (b) Losses during the year and not compensated for by in-
21 surance or otherwise.

22 (c) Dividends or incomes received by any person from
23 stocks or interest in any copartnership, corporation, joint stock
24 company or association, the income of which shall have been as-
25 sessed under the provisions of this act; *provided*, that when only
26 part of the income of any copartnership, corporation, joint stock
27 company or association shall have been assessed under this act
28 only a corresponding part of the dividends or income received
29 therefrom shall be deducted; and *provided, further*, that said co-
30 partnership, corporation, joint stock company or association re-

31 port the name and address of each person owning stock or hav-
32 ing such interest and the amount of dividends or income paid
33 such person during the assessment year.

34 (d) Interest paid within the year on existing indebtedness;
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35 *provided*, the debtor reports the amount so paid, the form of the
36 indebtedness, together with the name and address of the creditor.

37 (e) Interest received from bonds or other securities ex-
38 empt from taxation under the laws of the United States.

39 (f) Salaries or other compensation received from the
40 United States by officials thereof.

41-42 (g) Taxes paid by such persons during the year other than
43 inheritance taxes upon the property or business from which the
44 income hereby taxed is derived.

45 (h) All inheritances, devices and bequests received during
46 the year which are subject to and have complied with the in-
47 heritance tax laws of this state.

48 (i) Insurance to the total amount of ten thousand dollars
49 received by any person or persons legally dependent upon the de-
50 cedent, in payment of a death claim by any insurance company,
51 fraternal benefit society or other insurer.

52 (j) Dividends received from state banks, national banks,
53 mutual savings banks and trust companies subject to tax here-
54 under.

Sec. 5. (1) There shall be exempt from taxation under
2 this act, income as follows, to-wit:

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3 (a) To an individual, income up to and including eighteen
4 hundred dollars.

5 (b) To husband and wife, twenty-four hundred dollars.

6 (c) For each child under the age of eighteen years, three
7 hundred dollars.

8 (d) For each additional person who is actually supported
9 by and entirely dependent upon the taxpayer for his support,
10 two hundred dollars.

11 (e) The aforesaid exemption shall not apply to incomes
12 derived from sources within the state by non-residents thereof,
13 nor to copartnerships, corporations, joint stock companies nor
14 associations. In computing said exemptions and the amount of
15 taxes payable by persons residing together as members of a fam-
16 ily, the income of the wife and the income of each child under

17 eighteen years of age shall be added to that of the husband or
18 father, or if he be not living, to that of the head of the family
19 and assessed to him. The taxes levied thereon shall be payable
20 by such husband or head of the family, but if not paid by him
21 may be enforced against any person whose income is included
22 in the assessment.

23 (2) Income of state banks, national banks, mutual savings
24 banks, trust companies and building and loan associations, and
25 of all religious, scientific, educational, benevolent or other cor-
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26 porations or associations of individuals not organized or con-
27 ducted for pecuniary profit.

28 (3) Incomes derived from property and privileged by per-
29 sons now required by law to pay taxes or license fees directly
30 into the treasury of the state in lieu of taxes, and such persons
31 shall continue to pay taxes and license fees as heretofore.

32 (4) Incomes received by the United States, the state, and
33 all counties, cities, villages, school districts or other political
34 units of the state.

Sec. 6. (1) The tax to be assessed, levied, and collected
2 upon the incomes of all persons, except as otherwise provided
3 by law, after making such deductions and exemptions as are
4 hereinbefore allowed, shall be computed at the following rates,
5 to-wit:

6 (a) On the first one thousand dollars of taxable income or
7 any part thereof, at the rate of one per cent.

8 (b) On the second one thousand dollars or any part there-
9 of, one and one-fourth per cent.

10 (b-a) On the second one thousand dollars or any part there-
11 of, one and one-fourth per cent.

11-a (c) On the third one thousand dollars or any part there-
12 of, one and one-half per cent.

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13 (d) On the fourth one thousand dollars or any part there-
14 of, one and three-fourths per cent.

15 (e) On the fifth one thousand dollars or any part there-
16 of, two per cent.

17 (f) On the sixth one thousand dollars or any part there-
18 of, two and one-half per cent.

19 (g) On the seventh one thousand dollars or any part there-
20 of, three per cent.

21 (h) On the eighth one thousand dollars or any part there-
22 of, three and one-half per cent.

23 (i) On the ninth one thousand dollars or any part there-
24 of, four per cent.

25 (j) On the tenth one thousand dollars or any part there-
26 of, four and one-half per cent.

27 (k) On the eleventh one thousand dollars or any part there-
28 of, five per cent.

29 (1) On the twelfth one thousand dollars or any part there-
30 of, five per cent.

31 (m) On any sum taxable income in excess of twelve thou-
32 sand dollars, six per cent.

33 (2) *Providing, however,* that the tax to be assessed, levied,
34 and collected upon the incomes of corporations, joint stock com-
35 panies or associations, after making due allowance for deduc-
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36 tions as hereinbefore provided, shall be computed at the follow-
37 ing rates, to-wit:

38 (a) If the taxable income equals one per cent or less of
39 the assessed value of the property used and employed in the ac-
40 quisition of such income, the rate of tax shall be one-half of one
41 per cent of such income.

42 (b) If the taxable income equals more than one, but does
43 not exceed two per cent of the assessed value of the property
44 used and employed in the acquisition of such income, the rate
45 of tax shall be one per cent of such income.

46 (c) If the taxable income equals more than two, but
47 does not exceed three per cent of the assessed value of the prop-
48 erty used and employed in the acquisition of such income, the
49 rate of tax shall be one and one-half per cent of such income.

50 (d) If the taxable income equals more than three, but
51 does not exceed four per cent of the assessed value of the prop-
52 erty used and employed in the acquisition of such income, the
53 rate of the tax shall be two per cent of such income.

54 (e) If the taxable income equals more than four, but does
55 not exceed five per cent of the assessed value of the property
56 used and employed in the acquisition of such income, the rate
57 of the tax shall be two and one-half per cent of such income.

[EXTRAORDINARY SESSION.]

Senate Bill No. 6

(By MR. WHITE.)

Introduced March 3, 1915. Referred to the Committee on the Judiciary. Ordered printed by the Committee.

A BILL to amend and re-enact section one hundred and twenty-six of chapter thirty-two of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 126. Every resident corporation shall pay an annual

license tax on its charter, based on its authorized capital stock as follows:

If the authorized capital stock be five thousand dollars, or less, fifteen dollars.

If more than five thousand dollars and not more than ten thousand dollars, twenty-five dollars.

If more than ten thousand dollars and not more than twenty-five thousand dollars, thirty dollars.

If more than twenty-five thousand dollars and not more than fifty thousand dollars, forty dollars.

If more than fifty thousand dollars and not more than seventy-five thousand dollars, sixty-five dollars.

If more than seventy-five thousand dollars and not more than one hundred thousand dollars, seventy-five dollars.

If more than one hundred thousand dollars and not more than

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one hundred and twenty-five thousand dollars, eighty-five dollars.

If more than one hundred and twenty-five thousand dollars and not more than one hundred and fifty thousand dollars, ninety dollars.

If more than one hundred and fifty thousand dollars and not more than one hundred and seventy-five thousand dollars, one hundred dollars.

If more than one hundred and seventy-five thousand dollars and not more than two hundred thousand dollars, one hundred and twenty dollars.

If more than two hundred thousand dollars and not more than three hundred thousand dollars, one hundred and forty-five dollars.

30 If more than three hundred thousand dollars and not more than
31 four hundred thousand dollars, one hundred and sixty dollars.

32 If more than four hundred thousand dollars and not more than
33 five hundred thousand dollars, one hundred and eighty dollars.

34 If more than five hundred thousand dollars and not more than
35 one million dollars, two hundred and fifty dollars.

36 If more than one million dollars, two hundred and fifty dollars,
37 and eighty-five dollars on each million dollars or fraction thereof
38 in excess of one million dollars.

EXTRAORDINARY SESSION

Senate Bill No. 2

[BY MR. McCrum.]

Introduced March 3, 1915. Referred to the Committee on Roads and Navigation. Ordered printed by the Committee. March 5, reported back with recommendation to pass; March 6, read a first time and ordered to its second reading; Constitutional rule dispensed with; amended and made special order for March 9, at 10:10 o'clock A. M.; March 9 further amended and ordered to its third reading; read a third time and passed as amended, with its title as amended.

A BILL to amend and re-enact chapters forty-two, forty-three and forty-four of the acts of one thousand nine hundred and thirteen, being serial section 2783, 5485, 5486, 5487, 5488, 5489 and 5490 of the code of one thousand nine hundred and thirteen and serial section 1497 of said code, relating to authority of courts and justices of the peace to sentence persons who may be convicted before them of crime, to imprisonment in the county jail, and to pay a fine or where a fine is imposed, without imprisonment, and such persons are committed to jail in default of payment thereof to be sentenced to labor on the public roads of the county under the supervision of the county road engineer or other representative of the county court having charge of the public roads; authorizing the transfer of prisoners, the establishment of camps and plants and election of accused to work on the public roads.

Be it enacted by the Legislature of West Virginia:

That chapters forty-two, forty-three and forty-four of the acts of one thousand nine hundred and thirteen, being serial sections 2783,

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5485, 5486, 5487, 5488, 5489 and 5490 of the code of one thousand nine hundred and thirteen, and serial section 1497 of said code be and they are hereby amended and re-enacted to read as follows:

Section 1. All male persons over the age of sixteen who may be convicted of any crime or offense, the punishment of which is confinement in the county jail, before any court or justice of the peace of which such court or justice has jurisdiction and sentenced by such court or justice of the peace to imprisonment in the county jail and to pay a fine and costs, shall be sentenced by such court or justice of the peace to labor on the public roads of the county under the direction of and with those worked by the county road engineer or other representative of the county court having such work in charge, during the time of such imprisonment and until said fines and costs are satisfied; and whenever a fine and costs are imposed on such person without imprisonment, and such fines and costs are not paid as is prescribed in serial section 1496, section ten of chapter thirty-six of the code of one thousand nine hundred and thirteen, serial section 2782, section two hundred and twenty-eight of chapter fifty of the code of one thousand nine hundred and thirteen, such court or justice of the peace shall sentence such person to labor on the public roads of such county or in whatever county may be directed; *provided*, work is not arranged for in the S. B. No. 2]

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county under the jurisdiction of such court or justice of the peace then such person so sentenced by such court or justice of the peace shall be sentenced to labor on the public roads of any other county working prisoners under the direction of the county road engineer or other officer having charge of the roads under the supervision of the county court, but said work shall not be required to be done on the streets or alleys of a city, town or village, which under its charter keeps its own streets and alleys in order, unless the corporate authorities thereof shall first arrange with the county authorities and pay for such work to the keeper of the jail of said county the amount to which he shall be entitled for the board of such prisoners.

Sec. 2. The county court of each county shall provide for the working of the prisoners and shall provide for the safe keeping of such prisoners while performing such work and to this end the border line of each county shall constitute and be considered the

5 walls of the jail of such county and the county engineer or other
6 representative of the county court, having such work in charge,
7 shall be and is hereby empowered to adopt safe and humane
8 methods of discipline and protection to enforce the provisions of
9 this chapter and prevent escape.

Sec. 3. The court or justice of the peace, before whom any
2 such prisoner is convicted for good reasons appearing to him and

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3 entered on his docket, may omit from the sentence that part of
4 the penalty requiring such person to work on the public roads of
5 the county.

Sec. 4. Whenever any such person shall escape while work-
2 ing on such public roads and be re-captured he shall be taken
3 by the officer having him in custody before any court or justice of
4 the peace having jurisdiction in the county where such escape
5 was made, who shall, after a trial and upon conviction for such
6 escape, sentence him to labor on the public roads of said county,
7 in addition to fines and sentences imposed at previous trial or
8 trials, not less than sixty days nor more than six months and to
9 pay the cost of making the arrest, including all cost of trials and
10 in default of payment shall sentence said prisoner to work out said
11 costs on said public roads as herein provided.

Sec. 5. The county court shall employ a sufficient number of
2-3-4 persons to guard such prisoners, not to exceed one for every ten
5 prisoners so employed on such county road, and the wages of such
6 guards shall be paid out of the county treasury when allowed by
7 the county court and shall not exceed two dollars and fifty cents
8 per day for each guard. Such guards when employed shall be sub-
9 ject to, and under the direction of, the county road engineer or
10 other representative of the county court having the work in charge.
11 The keeper of the jail shall file with the clerk of the county
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12 court a monthly statement showing the number of prisoners in
13 jail awaiting trial, the number of prisoners sentenced to work
14 upon the public roads, the number of days work performed, the
15 number of days idle, and the reason therefor and shall furnish a
16 duplicate copy to the state road bureau, under whose general
17 direction all prisoners shall be employed. Whenever prisoners are
18 worked from camps or kept outside of the jail, the person in
19 charge of the camp shall furnish the jailer with the information

20 herein required or file the same with the clerk of the county
21 court under the direction of the county road engineer.

Sec. 6. Every court or justice of the peace before whom any
2 person is convicted of an offense and sentenced to be confined in
3 the county jail and pay a fine or sentenced to pay a fine
4 without jail sentence and is confined for non-payment there-
5 of, shall certify to the jailer the length of sentence and the
6 amount of fine in the manner and form provided in the following
7 section.

Sec. 7. Commitment by.....for imprisonment for.....
2 sentence, fine and costs.

3 State of West Virginia)
) ss.

4 County of.....)

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5 To the sheriff or any constable of said county, and to the
6 jailer of said county:

7 WHEREAS..... was this day convicted before me of the
8 crime of and was sentenced to confinement in the county
9 jail for the period ofdays (or months) from this date and
10 to pay the state a fine of dollars and costs incurred, amount-
11 ing to the sum ofdollars, itemized (on the back hereof)
12 and to labor on the public roads in said county until said fines and
13 costs are paid, as provided in chapter of the acts of the legis-
14 lature of the said state for the year one thousand nine hundred and
15 fifteen.

16 You, the said sheriff or constable, are hereby commanded in
17 the name of the state to forthwith safely convey the said
18 and deliver him to the said jailer with this process, and you, the
19 said jailer, are hereby commanded in the name of the said state to
20 receive and confine the said in said jail and to see that
21 the said labors according to law on the public roads un-
22 til said sentence, fine and costs have been satisfied or until he be
23 discharged according to law.

24 Given under my hand and seal this, the day of.....
25 19...

26
27 Court or Justice of the Peace.

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Sec. 8. The circuit, criminal, intermediate or justice court
2 wherein the said person was sentenced, or the judge therein in

3 vacation, may, for good cause shown, release such defendant from
4 such imprisonment and suspend the payment of fine and costs, but
5 no such order shall be made by a justice or a judge in vacation until
6 at least ten days notice in writing be given to the prosecuting at-
7 torney of the time and place at which the motion thereof shall be
8 made.

Sec. 9. For the purpose of this chapter, the sentence to work
2 upon the public roads shall include any labor upon any of the
3 roads, bridges, culverts, or the preparation of any road material, or
4 equipment on or for public roads at any point designated by the
6 county engineer or other representative of the county court hav-
7 ing the work in charge.

Sec. 10. The circuit, intermediate or criminal courts of the
2 state shall have power upon petition of the prosecuting attorney,
3 county engineer, the state road bureau or any taxpayer of the
4 county to issue a rule requiring the county court to prepare and
5 provide for the working of prisoners confined in the county jail,
6 and if the county court can show, or does show, good cause for not
7 working any prisoner or prisoners, the judge of the circuit, in-
8 termediate or criminal courts shall have power to transfer all
9 prisoners sentenced to work upon the roads and confined in the

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10 county jail to another county within his jurisdiction or to any
11 other county in the state providing for and working its prisoners,
12 or the county court by arrangement with the court of another
13 county may on its own volition transfer such prisoners. The
14 county from which such prisoners are transferred shall pay the
15 cost of transportation to the officer conveying said prisoners to the
16 county in which they are directed to work. The county receiving
17 such prisoners shall maintain the same and on expiration of sen-
18 tence the prisoner shall be discharged from the place he may be
19 working; *provided, further*, that the said road bureau may establish
20 camp, or camps for the care and keeping of prisoners and may
21 transfer thereto such county prisoners as are not being worked in
22 any of the counties of the state, or may, by arrangement with the
23 board of control, as is provided for the working of such prisoners
24 and use therein state prisoners for the purpose of constructing
25 roads and preparing road materials for use upon the public roads
26 and the properties belonging to the state or counties and arrange
27 for the cost of production of such material.

Sec. 11. The county court of any county is hereby authorized and empowered to establish quarries and plants for the preparation of road materials and use thereon the county prisoners and establish a camp, or camps, with necessary equipment for the keeping and care of such prisoners and may allow the jailer such
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sum as is fixed by the court, not to exceed sixty cents per day, and the court may elect to establish camps, cooking and sleeping quarters with equipments and appliances for their maintenance and shall pay the expense out of the county treasury, except the cook, who shall be paid by the sheriff, when the sheriff be compensated by day rates.

Sec. 12. A person charged with misdemeanor, who is unable to furnish a recognizance, or bail bond with satisfactory sureties, according to law, or he is refused bail, may, after being committed to jail, elect to labor upon the public roads of the county in which such crime is alleged to have been committed, and in such case the circuit, criminal or intermediate court of such county, or judge thereof, in vacation, may, in its discretion, enter an order in the order book of such court permitting such persons to labor upon the public roads of said county as herein provided, until such time as may be fixed by such court, or judge thereof, in vacation.

If, at his trial, such person is convicted and sentenced to imprisonment in the county jail, or to labor upon the public roads of such county, he shall be credited on his term the number of days he has labored on said public roads; if fined, he shall be credited on the amount of his fine and costs with one dollar per day for each day he labored on said road, and if acquitted, he shall be paid one dollar for each day he labored on said public roads, to

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be paid out of the road funds of the county or district to which such work is chargeable, when allowed by the county court.

All costs discharged by working on the public roads not hereinbefore provided, shall be paid by the county court to the officers and persons entitled thereto out of the county treasury.

Sec. 13. The county engineer or other representative of the county court, having the prisoners in charge, shall establish such rules and regulations for the working of the prisoners as may from time to time be advisable and are not inconsistent with law. And prisoners refusing to work may be denied credit for the time he so refuses to work.

Sec. 14. Every person sentenced to labor on the county roads under the provisions of this act, who faithfully complies with all the rules and regulations that may be prescribed by the county road authorities, governing the working of prisoners on the public roads shall be entitled to a deduction from his sentence of five days for each month, and in addition thereto the county court for excellent service rendered may allow such financial aid to the family of such prisoners as the court may deem wise or an allowance not to exceed twenty-five cents per day may be made to such prisoner upon his discharge.

All acts or parts of acts inconsistent herewith are hereby repealed.

EXTRAORDINARY SESSION.

Senate Bill No. 19

Introduced March 9, 1915. Referred to the Committee on Finance. Ordered printed by the Committee.

A BILL to provide a special inspection fee for the purpose of aiding the state to maintain the state department of mines and defray the expenses thereof, and making provisions relative thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. The word "operator", as used in this act, shall mean and include every person, firm, association or corporation carrying on the business of mining coal in this state, whose mines are subject to the supervision of, or inspection by the state department of mines. The word "output" shall mean the aggregate amount, in gross tons, of all coal mined in any mine or mines owned, controlled or operated by any operator during the year beginning July first and ending June thirtieth. For the purpose of this act, all operators shall be classified into twenty classes, designated, respectively, from "a" to "t" inclusive. A special inspection fee shall be paid to the state annually, by every operator, in addition to other taxes, for the purpose of aiding the state to maintain the state department of mines and defray the expenses thereof. Such fee shall be paid to the auditor of the state and by him placed to the credit of the general reve-

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16 nue of the state. The classification of operators and the inspection
17 fee to be paid by them, respectively, shall be determined and fixed
18 as provided by section two, of this act.

Sec. 2. The classification of operators and the annual in-
2 spection fees payable hereunder, shall be as follows:

3 (a) If the output be twenty-five thousand tons, or less,
4 twenty-five dollars;

5 (b) If more than twenty-five thousand tons and not more
6 than fifty thousand tons, fifty dollars;

7 (c) If more than fifty thousand tons and not more than
8-9-10 seventy-five thousand tons, seventy-five dollars;

11 (d) If more than seventy-five thousand tons and not more
12 than one hundred thousand tons, one hundred dollars;

13 (e) If more than one hundred thousand tons and not more
14 than one hundred and fifty thousand tons, one hundred and fifty
15 dollars;

16 (f) If more than one hundred and fifty thousand tons and
17 not more than two hundred thousand tons, two hundred dollars;

18 (g) If more than two hundred thousand tons and not more
19 than two hundred and fifty thousand tons, two hundred and fifty
20 dollars;

21 (h) If more than two hundred and fifty thousand tons and
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22 not more than three hundred thousand tons, three hundred dol-
23 lars;

24 (i) If more than three hundred thousand tons and not
25 more than four hundred thousand tons, four hundred dollars;

26 (j) If more than four hundred thousand tons and not
27 more than five hundred thousand tons, five hundred dollars;

28 (k) If more than five hundred thousand tons and not more
29 than six hundred thousand tons, six hundred dollars;

29-a (l) If more than six hundred thousand tons and not more
30 than seven hundred and fifty thousand tons, seven hundred and
31 fifty dollars;

32 (m) If more than seven hundred and fifty thousand tons
33 and not more than one million tons, one thousand dollars;

34 (n) If more than one million tons and not more than one
35 million five hundred thousand, fifteen hundred dollars;

36 (o) If more than one million five hundred thousand and
37 not more than two million tons, two thousand dollars;

38 (p) If more than two million tons and not more than two
39 million and five hundred thousand tons, twenty-five hundred dol-
40 lars;

41 (q) If more than two million and five hundred thousand
42 tons and not more than three million tons, three thousand dol-
43 lars;

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44 (r) If more than three million tons and not more than
45 three million five hundred thousand tons, thirty-five hundred dol-
46 lars;

47 (s) If more than three million five hundred thousand tons
48 and not more than four million tons, four thousand dollars;

49 (t) All over four million tons, forty-five hundred dollars.

Sec. 3. Every operator coming within the purview of this
2 act shall, on or before the fifteenth day of July, next, and each
3 succeeding year thereafter, present to the state auditor a written
4 statement, under oath, showing (a) the county or counties in
5 which his business is carried on; (b) a description of the premises
6 operated by him, including the number of mines thereon; (c) the
7 out-put of such mines during the year preceeding the first day
8 of such July; and with said statement the operator shall pay to
9 the state auditor the sum required by the classification set out in
10 section two, of this act. The auditor, upon payment of such
11 sum, shall issue and deliver proper receipt to the operator, show-
12 ing the payment of the tax, and deliver like copy thereof to the
13 chief of the department of mines. If the auditor, at any time,
14 shall find the out-put greater than that stated by the operator,
15 then the auditor shall require payment of the additional amount
16 as ascertained by the classification aforesaid. The chief of the
17 department of mines, at any time, upon request of the auditor,
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18 shall furnish to him any information respecting the out-put of
19 any mines coming within the purview of this act; and the chief
20 of the department of mines, at any time, at the request of the
21 auditor, shall furnish him a list of all mines subject to his super-
22 vision or inspection. If any operator shall feel himself aggrieved
23 by any action of the auditor, under this act, he may apply for
24 relief to the board of public works, and upon due notice having
25 been given the auditor, the board shall proceed to hear the matter
26 and any pertinent evidence that may be offered thereupon, and
27 make such order therein which may be right and just, which

28 order shall be final and binding upon the operator as well as up-
29 on the auditor.

Sec. 4 If any operator shall fail or refuse to make to the
2 auditor the statement herein provided for and to pay the in-
3 spection fee hereby required, he shall be guilty of a misdemeanor
4 and upon conviction shall be fined not less than one hundred nor
5 more than five hundred dollars and imprisoned in the county jail
6 not exceeding six months. It shall be the duty of the auditor
7 to institute any action at law or other proceeding to collect from
8 the operator the inspection fee hereby imposed, together with a
9 penalty thereon at the rate of ten per cent. per annum from
10 the time the same should have been paid until it is collected.

Sec. 5. If any person shall swear falsely to any statement
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2 of the actual out-put required by this act, he shall be guilty of
3 false swearing, and upon conviction shall be fined not more than
4 five hundred dollars and confined in the county jail not less
5 than six months nor more than one year. Any oath required
6 to the written statement, made under the provisions of this act,
7 shall be as follows: When the operator is an individual, then
8 by such individual; when the operator is a firm or company, not
9 incorporated, then by a member of such firm or company, not
10 incorporated, then by a member of such firm or company; when
11 the operator is a corporation, then the president, secretary or
12 chief accounting officer thereof.

13 All acts and parts of acts inconsistent herewith are hereby
14 repealed.

EXTRAORDINARY SESSION.

Senate Bill No. 4

[BY MR. MCCRUM, BY REQUEST.]

Introduced March 3, 1915; referred to the Committee on Roads and Navigation; ordered printed by the committee, March 6. Constitutional rule dispensed with; read a first time by its title and ordered to its second reading. Special order for Monday, March 9, 10:30 A. M. A BILL to amend and re-enact sections one, two, six, sixteen, seventeen, twenty-two, thirty-seven, fifty-one, seventy, seventy-one,

eighty-one, eighty-two, ninety-five, one hundred and one of chapter fifty-two of the acts of the legislature of one thousand nine hundred and nine as amended by the acts of one thousand nine hundred and eleven and the acts of one thousand nine hundred and fifteen, being serial sections 1770, 1771, 1773, 1783, 1784, 1789, 1803, 1817, 1837, 1838, 1848, 1949, 1862 and 1868 of the code of one thousand nine hundred and thirteen and to add to chapter forty-three of said code sub-sections 56-a-IV, 56-a-V, 56-a-XXXI, 56-a-XXXII; and to amend and re-enact sections eight, seventeen and nineteen of chapter forty-three-a of said code being serial sections 1948, 1957, and 1959 of said code, and to add sections 56-a-CVI to 56-a-CXIV inclusive, to chapter forty-three of said code and to repeal serial section 3287, serial sections 1728 to 1752, inclusive, serial section 1763 to 1769, inclusive, with all sub-sections thereof and serial sections 1873 to 1940, inclusive.

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with all sub-sections thereof, of said code, relating to roads, bridges, levies, bonds for road and bridge improvement and bridge purchases; qualification, and duties of county road engineers and other officials; the creation of the office and appointment of county engineer; relating to the sale and purity of metals and road materials; character of wheels, loads and appliances; protection of roads; describing the manner of administration and accounting of road funds, and authorizing the making of rules and regulations for the protection of roads and bridges; defining public roads, right of way and contracts; providing for the establishment, construction and maintenance of main county roads and creating a county road fund for the construction and maintenance of the same; creating a state road fund and providing for its expenditure; defining powers of the county courts as to county levies for road and bridge purposes; providing for and prescribing the duties of the state road bureau and state road engineer in relation to said main county roads and bridges; prohibiting unlawful combinations or trusts and providing punishment therefor; authorizing the collection and dissemination of statistics and information; prescribing rules and regulations for working and guarding prisoners and for the providing for the educa-

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tion of highway officials, the holding of examination and the issuance of certificate of proficiency to such officials."

Be it enacted by the Legislature of West Virginia:

“That serial section 3287, serial sections 1728 to 1752, inclusive, serial sections 1763 to 1969, inclusive, with all sub-sections thereof, and serial sections 1873 to 1940, inclusive, with all sub-sections thereof of the code of 1913 be and are hereby repealed and that serial sections 1770, 1771, 1773, 1783, 1784, 1789, 1803, 1817, 1837, 1838, 1848, 1849, 1862, 1868, 1948, 1957 and 1959 of said code of one thousand nine hundred and thirteen be amended and re-enacted and that sub-sections 56-a-IV, 56-a-V, 56-a-XXXI, 56-a-XXXII and 56-a-CVI to 56-a-CXIV, inclusive, be added to chapter forty-three of said code of 1913, relating to roads, bridges, officials, materials, contracts and administration of county and state road affairs to read as follows:

Section 56-a-I. A public road, within the meaning of this chapter, includes any road leading from any other public road over one or more person's land to another person's land and which has been established for the convenience of one or more residents or land owners, or persons or corporation owning or occupying or desiring to use or occupy lands which cannot be reached by any other public road, to which road the public has the right of and is not denied the use. Any road upon which any official has worked, or upon which public funds have been

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expended, unless otherwise provided by law, shall be and is under the jurisdiction of the county court and is the property of the public, whether or not the same be of record, and in the absence of any other marks, the center of the traveled way shall be taken to be the center of the road, and the right of way shall be designated an equal distance therefrom on each side, unless known marks or calls of property lines by actual survey of record designate a different location of the road, but a road may be constructed on any part of a located right of way when it is deemed to be for the best interest of the county; *provided*, the exact location and change be recorded.

A public road shall be deemed to include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls and all bridges having a span of twentyfeet or less.

Sec. 56-a-II. No bridge, unless it be exclusively for footmen, shall be less than fourteen feet wide. All public roads which were established in any of the counties of the state prior to the year one thousand nine hundred and nine, shall occupy a right of way of not less than thirty feet and the necessary slopes, un-

6 less the county court shall have made a special order for a different
 7 width, which order must be a matter of record in the office of the
 8 county clerk. Pikes, that through their charters have acquired
 9 a greater width, shall be maintained, including the Cumber-
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10 land road, so far as it lies within the state, which road shall be
 11 four rods, or sixty-six feet in width. All public roads which
 12 were established subsequent to one thousand nine hundred and
 13 nine, or may hereafter be established in any of the counties of
 14 this state, as public roads, shall occupy a right-of-way not less
 15 than forty feet wide and the necessary slopes, unless the county
 16 court order it to be of a greater width.

Sec. 56-a-IV. The term "assistant county engineer" or "spe-
 2 cial district engineer" in this or any other chapter, shall mean the
 3 engineer especially employed to do a special work, reporting di-
 4 rect to the court, or employed as an assistant to the county engi-
 5 neer to work with and under his directions.

Sec. 56-a-V. The term "other representative of the county
 6 court" in this or any other chapter of the code, shall mean any
 7 person or persons, including members of the court when acting
 8 as a committee other than the county engineer especially employed
 9 to take charge of any particular piece of work or to do anything
 10 directed by the court, and whether in this or any other chapter
 11 the duties and penalties imposed and referred to as being the
 12 county engineer shall apply thereto, and such officials shall make
 13 in their respective jurisdictions, any and all such reports as are
 14 required of the county engineer.

Sec. 56-a-VI. The term "county engineer," where so used in

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2 this or any other chapter shall mean the county road engineer
 3 appointed by the county court or any other representative ap-
 4 pointed by the court to act as the representative of the court.

Sec. 56-a-XVI. All bids for work to be let to contract under
 2 the provisions of this chapter, whether for construction or main-
 3 tenance, shall be received at the time and place specified in the
 4 advertisements and shall be opened only in open court and the
 5 amount and items comprising each bid shall be publicly an-
 6 nounced and the contract, if let, shall be let to the lowest respon-
 7 sible bidder who shall give bond with satisfactory security in the
 8 amount equal to the amount of the contract in question to faith-
 9 fully perform all duties required in the contract and supplying all

10 materials and guarantee such other requirements as may be speci-
11 fied in accordance with the law to be approved by the county court
12 of the county.

13 After such bids have been opened, as herein provided, it shall
14 be the duty of the county court or other tribunal acting in lieu
15 thereof, to publish in two newspapers of opposite politics, if
16-a such there be, published in the county, and if there
16 be no such papers published in the county, then in some
17 newspaper of general circulation therein, which publication shall
18 be made in the first issue of such newspaper after the bids are
19 opened, the names of all persons bidding on such contract, to-
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20 gether with the amount of their respective bids, designating the
21 person to whom such contract was awarded, if awarded, together
22 with the amount of his bid.

23 Any person who shall open any of the bids, at any other
24 time or place than herein provided, or shall make known the
25 name of the bidder, or the amount of his bid, otherwise than
26 herein provided, shall be guilty of a misdemeanor, and fined not
27 less than fifty nor more than two hundred dollars, and be im-
28 prisoned in the county jail not less than one nor more than six
29 months. And any member of the county court, or other tribunal
30 acting in lieu thereof, who shall violate the provisions of this
31 act, shall be deemed guilty of misconduct in office, and shall for-
32 feit his office, and in addition thereto shall be guilty of a misde-
33 meanor, and upon conviction thereof shall be fined not less than
34 fifty nor more than two hundred dollars and imprisoned in the
35 county jail not to exceed six months.

36 The county court may reserve from payment not less than
37 ten nor more than twenty per cent of the amount accruing on
38 said contract until the completion of said work and the same shall
39 be approved by the county road engineer, county court, or special
40 engineer appointed and authorized to represent the county court.

41 The court may reject any and all bids or may have the work
42 done in any other manner that may seem advisable. In the event

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43 there shall be two bids of the same amount for any section of
44 road or any other improvement, the bid of the person owning the
45 greatest amount of frontage or real estate abutting on said road
46 or the section where the improvement is to be made shall be accept-
47 ed. In the event that neither bidder owns property abutting on

48 said section to be improved, then in case of such equal bids, the
49 bidder owning property nearest the section to be improved shall be
50 given preference.

51 In the event the county court shall decide to have the work
52 done otherwise than by contract, then the work shall be done
53 under the direction of the county road engineer, or the court may
54 appoint a competent superintendent and under the supervision
55 of the county road engineer who shall have the supervision of the
56 road or roads of the precinct, district or section for which he was
57 appointed. He shall devote his entire time and attention to the
58 work or so much thereof as the court may direct and he shall re-
59 ceive such compensation for his services as may be determined by
60 said court or in case the court does not have a county road engineer
61 or for any reason the court deems it advisable where there is a
62 county engineer to appoint a special, competent, district engineer
63 to take charge of any district, special or particular piece of
64 work or to assist in any state aid work, it shall have the power
65 so to do and fix the compensation of said district engineer.

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Sec. 56-a-XVII. All notices and advertisements of the estab-
2 lishment, alteration or discontinuance of any road, bridge or land-
3 ing and all notices and advertisements for sales of public roads
4 to be let to contract under the provisions of this chapter, whether
5 for construction or maintenance, shall, unless otherwise provided
6 be published for at least two consecutive weeks next preceding
7 the sale of the public road to be let, at least once in each week in
8 two newspapers of general circulation and of different politics,
9 if there be such within the county. No road or bridge
9-a contract shall be let without advertising and all notices
10 for construction of bridges to be let under the pro-
10-a visions of this chapter, shall be published for at least
12 four consecutive weeks preceding the date of the letting of
13 said contract, at least once in each week in two newspapers of
14 general circulation and of different politics, if such there be in
15 the county, if not then in some paper of general circulation; the
16 county court may notify the state road bureau by copy of such
17 advertisement and give the location in the county, the name of the
18 stream over which, and the road upon which the bridge is to be
19 located to be included in its reports, and furnish a copy of the
20 plans submitted for bridges over forty feet and it shall be the duty
21 of said road bureau, (if the county court so requests,)

22 to report upon the plans and specifications for the con-
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23 tract, as to the sufficiency of the structure to carry
24 the required loads and on request of the court shall also
25 furnish the county court an estimate of the reasonable cost of said
26 bridge and to submit its recommendation in writing to the county
27 court which recommendation shall be made a part of the records
28 of said county.

29 No such contract shall be let to any person, association of
30 persons, company or corporation who, or which, is connected direct-
31 ly, indirectly or otherwise with any combination in the form of an
32 unlawful trust in restraint of trade, or who, or which enters into any
33 understanding, directly or indirectly, to limit in any manner com-
34 petition in bidding upon the construction of any road or bridge, or
35 for furnishing any materials used thereon and entering therein. Any
36 such combination or unlawful trust is hereby prohibited; any per-
37 son, association of persons, company or corporation entering into
38 or being a part of any such combination or unlawful trust shall be
39 guilty of a misdemeanor, and, upon conviction thereof, shall be
40 fined not exceeding one thousand dollars; and every person, county
41 or state officer or any employee of any county or the state includ-
42 ing the officers or members of any corporation, who shall be en-
43 gaged in any way in promoting any such combination or unlawful
44 trust or aiding or abetting the same, or knowingly committing any
45 acts in pursuance thereof, in addition to being subject to the fine
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46 aforesaid, may, in the discretion of the court, be imprisoned not
47 exceeding six months.

Sec. 56-a-XXII. Upon hearing the parties interested in
2 an application for public road, said county court shall
2a- decide for or against undertaking the proposed work
3 on behalf of the county. If it decide to undertake
4 said work and the compensation to be paid any proprietor
5 or tenant be not fixed by agreement or if the court
6 deems wise to widen out, straighten or repair any old road, the
7 court through its representative, is authorized to enter upon any
8 lands, other than those prohibited in this chapter, locate and build
9 said highways and the court shall, within sixty days after
9-a said highway is completed, cause to be summoned five
10 different free-holders who shall go upon the land and
10-a assess the damages and benefits and shall take into

11-12 consideration the benefits accruing to the property
13 and the damages sustained by the property and shall then fix the
14 compensation or damages as said jury may see proper, and the
15 amount so fixed shall be paid out of the road fund of the county,
16 and if after changing, locating or re-locating any public road or
17 highway or establishing any new road or highway, the damages
18 so assessed be not satisfactory to the property owners, proprietor
19 or tenant, he may within six months after said location, change

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20 or re-location, appeal or apply to the circuit court which court
21 shall appoint a jury to go upon the ground and assess the damages
22 and benefits as herein provided, subtract the one from the other
23 and the result shall be their verdict, and if said jury award no
24 more damages than the amount offered by the county court or
25 fixed by its commission, then the party aggrieved shall pay the
26 cost of making said assessment, *provided, however*, before entering
27 upon said land as authorized by this section, it shall be the duty
28 of the county court or its representative to serve notice upon the
29 owner or owners of said land as provided in section seventeen and
30 twenty of this chapter, notifying the property owners that the
31 highway is to be located upon their land under the authority of
32 this act and any person who shall obstruct the public road or
33 county engineer or employe or employes of the county court in
34 making the survey, changing the road or opening up a new public
35 road, shall be guilty of a misdemeanor and upon conviction thereof,
36 shall be fined not to exceed fifty dollars, or imprisoned not to
37 exceed one month, or both in the discretion of the court.

38 If it seems proper so to do, the court may establish any
39 such public road upon conditions that the petitioner shall pay all
40 costs and damages as assessed and make and keep in repair such
41 road and erect and maintain in good repair two or more public
42 gates across such road and where the road passes through the
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43 fence or fences as is provided in section forty-three of this chapter;
44 the court may impose upon such petitioner, his heirs and assigns,
45 and upon the public such other conditions in reference to such
46 road as the court may deem just. In the event that any of the
47 conditions so imposed by the court are not fully complied with, the
48 court, at any time, after giving the required sixty days notice
49 to the public and to the petitioner, his heirs and assigns, in such

50 manner as the court may prescribe, may discontinue or abandon
51 such road.

Sec. 56-a-XXI. The county court of each county may make such
2 rules and regulations, not inconsistent with any law, pertaining
3 to the usage, maintenance and protection of the roads, and where
4 any person, persons, firm, firms, corporation or corporations, are
5 making continuous use of any piece of the road or driving thereon
6 any wagon, wagons, motor vehicle, tractor, tractors, truck, trucks,
7 or bus, and by such use are causing more than the usual wear, the
8 county court may compel such person, persons, firm, firms, corpora-
9 tion, or corporations to put thereon a section man or men and keep
10 or assist in keeping said road in such repair as the court may
11 order.

12 Such rules, when prescribed, shall be reasonable and be
13 entered of record and by order of the court be published four
14 successive weeks in two newspapers of opposite politics, if such

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15 there be in the county; one copy posted at the front door of the
16 court house, one copy furnished the state road bureau to be included
17 and published in its annual report.

17 Any person disobeying, or refusing to obey the order of any
18 county court shall be adjudged guilty of a misdemeanor and upon
19 conviction thereof may be fined not to exceed fifty dollars or
20 imprisoned or both. Justices of the peace shall have jurisdiction
21 in cases arising under this section.

Sec. 56-a-XXII. Any person, firm, or corporation offering for
2 sale or selling any metal or metal culvert, fence or fencing or any
3 other metal excepting structural bridge steel and rivets and bolts
4 used in bridges, for use upon highways, roads, streets, or parks in
5 any of the counties, cities or towns within the state shall furnish
6 therewith a certificate of its purity, showing the chemical constit-
7 uents and the percentage of impurities and alloys contained therein.

Any person, firm or corporation, offering for sale
2 or selling any paints or painting materials for use upon the public
3 bridges, buildings or other public properties of the state or of any
4 county, city or town within the state, shall furnish therewith a
5 certificate of its purity showing its chemical constituents and the
6 percentage of impurities contained therein.

Any person, firm or corporation furnishing a false
2 certificate shall be guilty of a misdemeanor and shall be fined not

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3 less than twenty-five dollars nor more than two hundred dollars
4 and may be imprisoned not less than one month nor more than
5 twelve months.

5 Any court or justice of the peace shall have jurisdiction in
7 cases arising under this section, and any citizen or official may
8 have tests made of any article or material sold in compliance with
9 this section and the certificate of a reputable chemist shall be
10 admitted as evidence in cases arising under this act.

Sec. 56-a-XXXVII. If any person, without authority from the
2 board of public works as to the Cumberland road or the superinten-
3 dent of said road, or the county road engineer, or the superinten-
4 dent of any other road or turnpike, or person acting as agent there-
5 of, shall remove, injure, or deface any of the milestones or posts,
6 parapets, walks, culverts, bridges, masonry of any kind, gates or
7 toll houses belonging to said Cumberland road, or any other road
8 or turnpike authorized by law to receive tolls, or any county road,
9 or shall turn any stream of water from its regular course toward
10 or upon such road, so as to injure the same, or shall obstruct any
11 of the gutters, drains or culverts of such road, or shall connect any
12 public or private road with such road, without securing such road
13 from injury by reason of such connection, or by the flow of water
14 at the place of such connection, or shall place or leave on such
15 road any earth, ashes, stone, fence, tacks, nails, glass or other

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16 obstruction to the travel and use of such road, or shall so place
17 or leave thereon any vehicle as to interfere with such travel such
18 person, firm or corporation shall be liable for the damages and in
19 addition thereto shall be guilty of a misdemeanor and upon convic-
20 tion thereof may be fined not to exceed fifty dollars. Justices of
21 the peace shall have jurisdiction under this section.

Sec. 56-a-LI. The office of county road engineer is
2 hereby created in the several counties of the state of
2-a West Virginia. The county court in each county of the
3 state may appoint as county road engineer a competent
4 civil engineer or some practical road builder who has had
5 at least two years experience in directing work, who shall be
6 competent to establish grades and to keep the roads and records
7 as provided by law and make such reports and estimates as are
8 required. Said engineer shall hold his office for such term as the
9 court may by order direct not to exceed one year, but may

10 thereafter be reappointed. Said engineer shall receive such com-
11 pensation as may be fixed by the county court. If the court so
12 elects to employ him for the days actually employed he shall
13 receive not to exceed ten dollars per day or said engineer may be
14 paid an annual salary of not to exceed two thousand
15 dollars, and in counties having a population over forty-
16 five thousand the salary may be three thousand dollars per year.

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17 for which salary he shall devote his entire time to the business of
18 his said office.

19 Two or more county courts, by agreement, may employ a com-
20 petent engineer who shall devote his entire time to the roads of
21 the counties so employing him and receive from each county the
22 amounts agreed upon including his actual expenses not to exceed
23 the aggregate amounts provided herein.

24 It shall be the duty of the county clerk to give written notice
25 to the appointee provided in this section, of his appointment as
26 soon thereafter as practicable, and each person so appointed shall,
27 within ten days after having been notified of such appointment,
28 qualify by giving bond as the court may direct for the faithful
29 performance of his duties, and by taking and subscribing to the
30 oath prescribed by the fifth section of the fourth article of the
31 constitution of the state, a copy of which shall be filed in the office
32 of the clerk of the county court.

33 The county road engineer shall have office room in the court
34 house of the county, or such other place at the county seat as the
35 court may provide.

56-a-LXX. All claims of any contractor, or contractors, or
2 others which may under the provisions of this chapter or by virtue
3 of any contract made under the authority of this chapter be due
4 to such contractor or contractors, shall first be examined, checked

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5 and approved by the county road engineer in charge, which claims
6 shall by him be certified to the county court setting forth the items,
7 the road or bridge upon which the labor or material was applied,
8 and if for labor or material based on estimate of an uncompleted
9 contract, the court shall reserve from payment thereof, not less
10 than ten nor more than twenty per cent. as may be specified in
11 the contract. If for maintenance work, the amount shall be
12 proportioned by estimate in proportion to the period for which the

13 work was done as that period may be of the entire maintenance
 14 contract, the court may reserve therefrom an amount not to ex-
 15 ceed twenty per cent. and issue an order as herein provided, direct-
 16 ing the sheriff to pay out of the proper fund the amount due on
 17 such claim.

18 The county court for the purpose of meeting and taking care
 19 of the necessary charges and expenses which may be incurred by
 20 the county road engineer or other representatives of the county
 21 court, having said work in charge during the recess of such court,
 22 in performing the duties required of him, may at each term of the
 23 court set apart and appropriate out of the road fund in the hands
 25 of the sheriff under which such work shall be done, and not other-
 26 wise appropriated, funds sufficient to pay said expenses in each
 27 district. Said appropriation to be based on a written, itemized
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28 estimate to be certified and furnished to the county court by the
 29 county road engineer, or other representative of the county court,
 30 having said work in charge, who shall draw his order on the sheriff
 31 in favor of the person for the work done and services performed,
 32 and on the reverse side of said order the sheriff shall issue his
 33 check, in favor of the person shown by the said order to be entitled
 34 to the money.

35 The form of said order and check shall be as follows:

36 No., W. Va., 191....
 37 Office County Road Engineer.
 38county, W. Va.
 39 (Across left end or order).....Road Fund
 40 The sheriff will pay to the order of \$.
 41 Dollars,
 42 For
 43 Out of the road fund of....., appropriated by order
 44 of the county court,, 191.....

.....
County Road Engineer.....

(Reverse side)

45 No. W. Va., 191....
 46 Bank.

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47 (Across left end of check):.....Road Fund
 48 Pay to the order of \$.

49 Dollars.
 50 In settlement of order on reverse side of this check.

.....
Sheriff.

51 The county road engineer or other representative of the county
 52 court having the said work in charge, shall, at each successive
 53 session of the court, make a report in writing to the court, show-
 54 ing what orders drawn on the sheriff, to whom payable, for what
 55 services, on what road rendered, where rendered, and the sheriff
 56 shall likewise, at each successive session of the county court make a
 57 report to the court showing what orders by the county road engineer
 58 or other representative of the county court, having the said work in
 59 charge, under the provisions of this act have been paid by him. Said
 60 reports shall be audited by the county court, filed and recorded in
 61 the minute book, or appropriation record of said court.

62 Said county road engineer or other representative of the county
 63 court having the said work in charge is prohibited from issuing
 64 any orders in excess of said appropriation or improperly issuing
 65 any orders, which are paid by the sheriff, as herein provided, and
 66 said county road engineer, or other representative of the county
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67 court shall be liable for the same on his official bond. Said county
 68 court shall at each term or session ascertain from the sheriff the
 69 balance in each road fund and from the county road engineer or
 70 other representative of the county court the number of orders out-
 71 standing against appropriations of the prior term and enter an order
 72 showing the correct balance in each road fund after deducting the
 73 unpaid outstanding orders. Said county road engineer or other
 74 representative of the county court shall file with the clerk of the
 74-a county court a weekly statement of all expenditures, and such clerk
 75 shall file such reports in a manner so as to be available for in-
 76 spection by any taxpayer or other person interested. The county
 77 road engineer or other representative shall not pay out of said ap-
 78 propriation anything to any contractor or contractors or issue any
 79 orders on the appropriated funds other than for legitimate road
 80 expenses, and for actual time employed.

81 The clerk of the county court is authorized and directed to
 82 have printed and furnish the county road engineer or other re-
 83 presentative, having said work in charge, the form of order and
 84 check herein prescribed, selecting different colored order and check

85 for each magisterial district. Said clerk shall have printed two
86 stubs with each order and check, one of which is to be retained by
87 the county road engineer or other representative of the county

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88 court having the work in charge, the other to be detached from
89 the order and retained by the sheriff in his office.

90 The order paid by the sheriff out of appropriated funds, as
91 herein provided, shall be accepted and credited by the commis-
92 sioners when making settlement of the road fund accounts of
93 such sheriff.

94 The county court shall, when any road construction or main-
95 tenance is under way, meet on the first Monday in each month and
96 audit and settle the road accounts of the preceding month. In
97 counties having other tribunals in lieu of the county court, a com-
98 mittee, not to exceed three in number, may be appointed to meet
99 and settle road accounts and report to the regular tribunal. The
100 county road engineer or other representative of the county
101 court shall prepare pay roll sheet or sheets, giving the name of
102 each person rendering any service upon the roads, designating the
103 road and place of such work and the fund from which such pay-
104 ment is to be made, which pay roll shall be checked and certified
105 to the county court and by it audited and if found correct, shall
106 issue an order on the sheriff setting forth the names of all parties
107 to whom payments shall be made and the funds from which pay-
108 ments shall be made and the sheriff shall issue his check payable
109 to each person and either furnish the same to the county road
110 engineer or other representative of the court to be by him de-
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111 livered to the person entitled to such payment or shall mail the
112 same to the postoffice address given on the pay roll. Said pay
113 roll sheets shall be made in quadruple, one copy filed with the
114 clerk of the county court, one copy posted monthly on the first
115 Monday of each month, at the front door of the court house,
116 one copy mailed to the state road bureau with the copy of the
117 order of the county court showing the balance in each fund.

Sec. 56-a-LXXI. It shall be the duty of each road engineer
2 or county court to see that all roads in the county heretofore es-
3 tablished or that may be hereafter established as public roads,
4 are put and kept in as good repair as may be with the means at
5 command as hereinafter provided. He or it shall cause such roads

6 and bridges to be kept in repair, free from obstruction and may
7 for this purpose, appoint a section man or section men or may
8 arrange with the property owners to keep in touch with and advise
9 concerning certain sections of road and shall cause the public
10 roads and bridges within the county to be inspected once in every
11 month and at such other times as may be prescribed. Said road engi-
12 neer shall keep in personal touch with all work and contracts and if
13 he finds any contractor or contractors, neglecting or refusing to ful-
14 fill his or their contracts, he shall give notice thereof and enforce the
15 same in the manner provided in section ninety-nine of this chapter.

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16 He shall cause all ditches, drains, culverts, and waterways to be
17 kept open, all loose stones causing obstruction to travel to be re-
18 moved from the beaten tracks of the public road and placed where
19 they will not again be carried in to the road and shall cause to be
20 removed or cut all brush, weeds or other obstruction within the
21 right-of-way twice in each year in the months of June and August.

22 He shall cause such roads as shall have been laid out, but
23 not sufficiently described and such as shall have been used for
24 a term of ten years but not recorded, to be ascertained, de-
25 scribed and entered on the records of the county clerk of the county
26 and shall cause to be opened and made all new county roads and
27 alterations of former roads ordered by proper authority and shall
28 cause to be placed and kept at the forks and crossings of every
29 main road, a guide board, on which shall be stated, in plain
30 letters, the most noted places to which each road leads and the
31 number of miles thereto. He shall cause to be placed across each
32 stream sufficient bridge, bench or log for foot passengers.

33 Where any important bridge is necessary and it is practical for
34 him to have it constructed with the money at his disposal, by
35 virtue of his office, after order from the court, he shall cause it to
36 be made safe and convenient and, at least fourteen feet wide with a
37 railing not less than three feet high on each side.

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38 When a public road is suddenly obstructed by falling rock or
39 timber or landslides or other cause or any bridge for any cause
40 rendered unsafe and the same be under contract for maintenance
41 as provided in this chapter, he shall give notice to the contractor
42 having such section of road or bridge under contract and it shall
43 be the duty of said contractor or contractors, at the earliest pos-

44 sible time, not to exceed twenty-four hours, to remove such ob-
45 struction and in case no effort has been made by the contractor
46 to remove such obstruction in the time specified, the engineer shall
47 employ such machinery, persons and teams as may be necessary
48 and without unavoidable delay remove such obstruction from the
49 road or bridge or make the same safe by proper repairs and the
50 cost thereof shall be recovered from the contractor or contractors
51 as provided in section sixty-five of this chapter. If the said section
52 of road or bridge obstructed be not under contract, the county
53 road engineer shall remove the same or shall instruct and ar-
54 range by the cheapest and quickest method with some person
55 nearby to remove said obstruction, report the cost thereof to the
56 county court which shall make payment out of the proper fund.

57 Said engineer shall cause all roads to be inspected when directed
58 for the purpose of procuring preliminary information to be used
59 in preparing plans and specifications for such roads, and to deter-

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60 mine the portion of road that may need special care and atten-
61 tion. He shall report the condition of such roads and submit
62 therewith such recommendations, when necessary, and as may seem
63 expedient. He shall report annually, on or before the first day of
64 July, of each year, and at such other times as may be required in
65 the manner and form prescribed by the state road bureau, the
66 condition of all roads and make such reports as may be required
67 of him. He shall advertise and attend such public meetings as
68 may be held in his county for the benefit of the roads.

Sec. 56-a-LXXXI. The county court of any county may by
2 an order regulate the speed of vehicles, horses and pedestrians
3 on bridges, and prescribe what weight of load or number of
4 stock of any kind may be driven over any bridge in
5 their county at any one time but in such case, they
6 shall cause a printed copy of such order to be kept posted
7 in a conspicuous place at each end of every bridge to which the
8 same is applicable.

9 Every person violating any such order posted, as aforesaid, or
10 who shall tear down or deface the same, except when ordered by
11 such court to do so, shall be guilty of a misdemeanor and upon
12 conviction thereof, shall be fined not less than ten nor more than
13 twenty-five dollars.

Sec. 56-a-LXXXII. Every person who shall draw upon the pub-

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2 lie roads, any log, stone or other material with the end dragging on
3 the ground so that the road shall be injured thereby shall be
4 liable for such damage and shall repair immediately such road and
5 may be fined not more than five dollars in excess of the cost of
6 such repairs, if he refuse to repair said road.

7 Every person who shall fast lock or rough lock either of the
8 wheels of said vehicle upon any part of the road not covered with
9 ice, except the same rest on an iron shoe at least six inches wide,
10 or uses of takes upon any brick, concrete, bituminous or macadam
11 road any traction engine, tractor, or any other vehicle having cleats,
12 corrugations or unusual appliances on the wheels which does said
13 brick, concrete, bituminous or macadam road unusual or unneces-
14 sary damage, he shall be liable to the county in which such brick,
15 concrete, bituminous or macadam road is located for the damage
16 so done and shall be deemed guilty of a misdemeanor and upon
17 conviction thereof may be fined not less than ten dollars nor more
18 than fifty dollars.

Sec. 56-a-XCV. The term, "competent civil engineer." when
2 used in this or any other chapter, shall mean a civil
3-a engineering graduate of some reputable college of engi-
4 neering, who has had at least one year's practical ex-
5 perience in designing and superintending construction work,
6 and has had experience on highway work or a practical

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6 engineer who has acquired an education equivalent to that
7 required for a first grade school teacher's certificate and who
8 has had five years' actual practical experience in designing and
9 superintending construction and maintenance on highways or
10 railways.

11 The term "practical road builder," shall mean a person who
12 has had at least two years actual practical experience in construc-
13 tion and maintenance work, one has shown himself capable of
14 directing the energies of others, and who is capable of estimating
15 quantities of material of various kinds for the various purposes for
15-a which such material may be required, and who shall be competent
15-b to establish grades, calculate cuts and fills and any matters that
15-c would be required in ordinary road building and maintenance.
16 or said road builder may pass an examination and receive a cer-
17 tificate of proficiency on any one subject or subjects and for this

18 purpose, the dean of the college of engineering, the chairman of
19 the state road bureau, and the professor of civil engineering at
20 the West Virginia University shall annually hold an examination
21 immediately following the short course in highway engineering at
22 said university, and shall prescribe such rules and regulations as
23 may be necessary for holding such examination and issue certi-
24 ficates of proficiency on any one subject or branch as required
25 herein.

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26 Said examining board shall serve without additional pay.

Sec. 56-a-CI. If it shall appear necessary to the county road
2 engineer to close a public road, which is being constructed or
3 repaired under this chapter, so as to permit a proper completion of
4 such work, he shall execute a notice in duplicate, such notice
5 shall state the necessity for closing such public road, describing
6 the portion to be closed; he shall cause to be posted at each end of
7 the portion to be closed, a copy of said notice and may have
8 the same published in two newspapers in the county as is re-
9 quired for other publications and shall thereupon close the same
10 to public travel by erecting suitable obstructions and posting
11 conspicuous notices. In the event the public road is closed, the
12 county engineer may direct a detour or provide a new loca-
13 tion by the construction of a temporary road to be used by the
14 traveling public in lieu of the closed public road and may erect
15 temporary bridges when necessary. For the purpose of locating
16 and constructing such temporary road and bridge, the county
17 road engineer may enter upon the land adjoining or near to the
18 closed public road and may, with the approval of the county court.
19 agree with the owner of such lands, the damages, if any, caused
20 thereby; if the county road engineer is unable to agree with such
21 owner for the amount of damages, if any, the amount thereof shall

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22 be ascertained, determined and paid as provided in section twen-
23 ty-two of this chapter.

24 When such public road shall have been closed to the public
25 as provided herein, any person who disregards the obstruction
26 and notice and drives or rides over the portion of the public
27 road so closed, shall be liable for the damages done to any section
28 or portion of the road being constructed and shall be guilty of a
29 misdemeanor and upon conviction thereof may be fined not less
30 than five dollars nor more than fifty dollars.

56-a-CVI. The county court of any county having within its
2 borders any toll bridge or bridges, upon petition of fifty legal
3 voters who are freeholders of any magisterial district having such
4 bridge or bridges within its boundary, or any two or more districts
5 now having one or more toll bridges on the boundary lines between
6 them, reciting that they desire to purchase such bridge or bridges
7 for the purpose of making them free to the public, shall submit to
8 the legal voters of such magisterial district or districts, in the form
9 and manner prescribed in sections twenty-five and twenty-five-a.
10 serial sections 1792 and 1793 of the code of one thousand nine
11 hundred and thirteen, a proposition for the issuance of bonds. The
12 order shall specify the amount and denomination of said bonds
13 to be issued and the bridge or bridges to be purchased. The pro-
14 ceeds of said bonds, if voted, shall only be used to purchase toll
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15 bridges now existing and nothing in this section shall be construed
16 to authorize the purchase of any toll bridge hereafter erected. In all
17 matters pertaining to the issuance of said bonds and the sale
18 thereof, the present law shall govern.

56-a-CVII. The county court of every county shall
2 establish not to exceed two main thoroughfares, or high-
3 ways through the county, at least one of which shall
4 pass through the county seat, which highways shall be
4-a known as "main county roads," and such roads may
5 be constructed and maintained by taxation upon all the property of
6 the county and from the proceeds of the state road fund. As
7 far as practicable, said main county roads shall traverse the county
8 in opposite directions, and so that each may connect with a main
9 county road of an adjoining county, or state, or extend to the
10 boundary of the county and pass through or near important towns.
11 In establishing such main county roads, the county court may
12 designate a road already established or such parts of it as the
13 court may deem practical. No main county road shall have a
14 grade exceeding five feet rise in each one hundred feet, unless
15 it shall be found necessary to have a steeper grade, and in such
16 case such steeper grade shall not exceed nine per cent and shall
17 be for as short a distance as may be practicable. The right-of-
18 way for such roads shall not be less than forty feet in width, with

19 necessary slopes, cuts and fills. All such main county roads shall
20 have bridges and culverts of permanent construction, and all

21 "breakers" shall be eliminated. The county court of each county
22 may apply to the state road bureau in such form as may be pre-
23 scribed by such bureau, and it shall be the duty of the state road
24 engineer, or his assistant, as promptly as practicable, to go upon
25 the road or roads designated by the county court as a main county
26 road, or upon the routes for such roads, and to lay out and locate
27 the same and make a report to the county court accompanied by
28 such description, maps, sketches or diagrams, estimates, plans and
29 specifications as he may think necessary and as are now required
30 by law. No such main county road shall be established by the
31 county court without the approval of the state road bureau.

Sec. 56-a-CVIII. There is hereby created a "state road fund,"
2 which shall consist of all sums of money which may be donated to
3 such fund, or appropriated by the legislature, or by the congress of
4 the United States, or from any other source. The auditor shall set
5 aside said moneys as the "state road fund" and it shall be used
6 only for the purposes named in this act. Said state road fund
7 shall be used for the purpose of paying the expenses of the state
8 road bureau as may be fixed from time to time by the legislature;
9 the cost of laying out and locating main county roads as pro-
10 vided in section one hundred and seven of this act, and the balance
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11 thereof shall be distributed among the counties annually to the
12 credit of the county road fund, in proportion to the mileage of the
13 main county roads in each county. All expenditures out of the
14 state road fund shall be made upon certificate of the state road
15 engineer and when approved by the state board of control, shall
16 be paid upon its requisition. All moneys accruing to the state
17 road fund, as aforesaid are hereby appropriated out of said fund
18 for the purposes and to be paid as aforesaid.

Sec. 56-a-CIX. The county court shall have authority to desig-
2 nate as a part of a main county road, any street,
3 or portion of a street, in any incorporated city, town
4 or village, and may expend labor and money, so far
4-a as may be necessary to put the same in good condition;
5 but the municipality shall thereafter maintain in good
6 condition, such main county road lying within its corporate lim-
7 its. In any case where any municipality is unable financially to
8 construct and maintain the bridges on any main county road
9 within its corporate limits, the county court may construct and
10 maintain the same. And the county court of any county may take

11 over any bridge or bridges heretofore built by any municipality
12 on any main county roads, when requested to do so by the authori-
13 ties thereof, and thereafter maintain the same. Such main county
14 roads shall be laid off into sections not exceeding one mile in

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15 length, and each section shall be numbered, beginning at the coun-
16 ty seat. Whenever it shall be deemed convenient and necessary,
17 one of said main county roads may traverse any portion of an-
18 other of such roads.

Sec. 56-a-CX. In addition to the general county and
2 district levy, and special levy, the county court shall lay
3 a special county road levy not to exceed twenty cents
4 on each one hundred dollars assessed valuation of all
4-a taxable property in the county, to be known as the
5 "county road fund," and to be expended only for the construc-
6 tion, improvement and maintenance of the main county roads and
7 for the construction and maintenance of the bridges thereon after
8 said roads are properly located. Hereafter no county court shall
9 levy any special county road or bridge tax except as in this sec-
10 tion provided, and the funds in any county treasury remaining
11 from any bridge levy heretofore made by any county court and not
12 needed for the purpose of building any proper bridge shall be
13 used for the construction and maintenance of main county roads.
14 *Provided*, that in any county where the county court has already
15 subscribed for, or purchased, or contracted to purchase the whole
16 or a portion only of the stock or bonds, or both, of any bridge
17 company, the county court, for the purpose of carrying into effect
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18 such contract or option, may lay any levy or levies provided for by
19 law before this act takes effect.

56-a-CXI. The county court of any county, may contract and
2 pay for making, improving and keeping in order, the whole or any
3 part of any main county road within the county. They may per-
4 manently improve by the use of asphaltum, brick, stone, block or
5 by macadamizing, or other process of equal merit, the main county
6 road within their county and may contract therefor with any con-
7 tractor for the use of any of these foregoing systems, and take bond
8 and security in a penalty equal to the estimated cost of the work
9 in question, from any such contractor for the faithful performance
10 of his contract.

56-a-CXII. When in the opinion of the county court the levy

2 herein provided for, together with any funds appropriated by the
3 state, are insufficient to construct the main county roads and the
4 bridges thereon, the said court is hereby authorized to issue and
5 sell bonds of the county and raise funds for such construction.

6 Upon petition of one hundred legal voters, who are freeholders
7 of said county, the court shall submit the proposition for issuance
8 of bonds as aforesaid, to the legal voters of said county, and may by
9 an order specify the work to which the money is proposed to be
10 appropriated, and the amount of the proposed appropriation, cause
11 a vote to be taken upon the question at the several places of voting

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12 in said county, at the succeeding general election for state and
13 county officers, or any special election, whichever is first held in
14 the county after such vote is ordered taken, or by special election
15 that the said county court may deem proper and may order for
16 the purpose; but such order must be published throughout the said
17 county thirty days at least, before the poll is taken, as follows:

18 The clerk of the county court shall cause as many copies of
19 such order to be written or printed as may be necessary, and
20 sign the same; he shall forthwith post one of them in a conspicuous
21 place in his office, one at the front door of the court house and
22 shall deliver the others to the sheriff of the county, who shall forth-
23 with post one of the said copies in a conspicuous place at every
24 voting place in the county aforesaid.

25 The court shall direct a copy to be published for four succes-
26 sive weeks prior to the date of said election, in two
27 newspapers of opposite politics if such there be published
28 in said county. A poll shall thereupon be taken and
29 the result ascertained under the regulations prescribed for
29-a general elections for county officers: or if the said
30 vote is taken at a special election, ordered for the purpose, the
31 same shall be held by commissioners appointed for the purpose by
32 the county court at the time said election is ordered, and the re-
33 sult shall be ascertained and certified according to the regulations
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34 prescribed by law for ascertaining and certifying the election of
35 county officers.

36 The ballots used in taking the said poll shall be the same as
37 those used in voting for officers at the general election for state and
38 county officers, except when the same is taken at a special election
39 as hereinbefore provided for, and there shall be written or printed

thereon the words "for bonds" and "against bonds," or any other words that will show how the voter intends to vote on the question proposed.

If it appears by the said poll that not less than three-fifths of the voters of the county who voted upon the proposed issuance of bonds are in favor of the same, the county court will then have authority to issue the amount of the bonds so voted in the name of the county, or any less amount on any such terms as they may deem advisable, and provide for the payment thereof by county taxation. The county court shall have authority to issue said bonds for and in the name of the said county, and to make provisions for the payment of principal and interest of the same by said county, as is required by law in such cases, upon the terms and conditions so specified in the order under which said vote is taken.

The president of the county court shall have power when so directed by such court, by an order entered of record therein, to

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execute, sell and deliver the bonds of said county, and receive the proceeds therefrom, and said bonds of said county shall be valid and binding thereon when signed by the president of the county court of such county, and countersigned by the clerk thereof, with the seal of said county attached thereto. Any county or magisterial district, in addition to the limitations of indebtedness prescribed in chapter 39, acts of 1913, may become indebted in an additional amount not to exceed two and one-half percentum of the taxable valuation of the property therein for the purpose of constructing permanent roads.

Sec. 56-a-CXIII. No bridge to be constructed on any main county road having a span of forty feet or more, shall be built, or let to contract to be built state aid is given until the plans and specifications therefor have been approved by the state road engineer. Upon application of the county court, the state road engineer shall prepare plans and specifications for any such bridge. Nor shall any contract be let for the building of any such bridge where state aid is given until such contract shall be approved by the state road engineer. All such contracts shall be let to the lowest responsible bidder, as is provided by law.

Sec. 56-a-CXIV. Upon a petition signed by at least forty-five per

2 centum of the voters of any district or county, praying the sub-
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3 mission to the voters of the district or county of the question
4 being filed in the county court, the county court shall submit to
5 the voters of such district or county at the next succeeding general
6 election, the question of working the roads other than main county
7 roads of such district or county by direct labor; *provided*, that such
8 petition shall have been filed at least four months prior to such
9 general election.

10 Such submission shall be by proclamation published in at
11 least two papers of general circulation in the county or district,
12 and of opposite politics for four weeks prior to such election, and
13 the court shall certify a copy of such proclamation to the board
14 of ballot commissioners at the time they are making up the offi-
15 cial ballot, and thereupon, the said board of ballot commissioners
16 shall cause to be printed on the official ballot to be used at such
17 election in said county or in such district, as the case may be, at
18 the foot of each column thereof the words "For Direct Road
19 Labor" with the usual square opposite the same, and the words
20 "Against Direct Road Labor" with the usual square opposite
21 the same. The vote on such question shall be counted and can-
22 vassed and ascertained as in the manner provided in the general
23 election laws, and if a majority of the votes cast be for direct road
24 labor, the county court shall levy only such part of the district
25 road maintenance fund as may be necessary to pay for road sup-

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26 erintendence and equipment and material in the districts wherein
27 the system is adopted, and thereupon every male person twenty-one
28 years of age and over and not over fifty years of age, who may
29 reside in the district or county as the case may be, shall work on
30 the roads of the county for not less than two, nor more than
31 ten days each year. The county road engineer shall have general
32 supervision of such work direct or through foreman employed by
33 him, and shall notify the persons liable for work hereunder as to
34 the time and place to attend and do the work required. He may
35 arrange for such teams as may be needed, and any person liable
36 for work under this section may furnish teams, harness and
37 drivers under arrangement with the county road engineer, and for
38 each team with harness, tools and driver so furnished such person
39 shall be credited with two days on the work he is liable to perform
40 hereunder. Any person liable to work hereunder may pay to the

41 county road engineer or the sheriff of the county at the rate of one
 42 dollar and fifty cents per diem for each day he is liable for work,
 43 and thereupon shall not be required to work. If any person fail or
 44 refuse to work the number of days required of him hereunder, the
 45 county road engineer shall file with the county court triplicate lists
 46 of such persons showing the amount due from each at the rates of
 47 one dollar and fifty cents per day for each day he has failed or
 48 refused to work or pay, and the county court, after inspecting
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49 such list shall certify the same duly corrected, and a list so
 50 certified shall be filed with the sheriff of the county, and one
 51 shall be filed in the office of the clerk of the county court, and
 52 one shall be posted by said clerk at the front door of his office.
 53 The sheriff shall be charged with the amount of such list so cer-
 54 tified and shall collect and account for the same in the manner and
 55 form provided as to other assessments and levies, and for the
 56 purpose of making collection thereof shall have the same power
 57 and authority he has in the collection of other taxes and levies.
 58 The change in system of road working made at any election here-
 59 under shall become effective as of the first day of July next
 60 following the election.

Sec. 8. The said bureau shall collect information compile
 2 statistics relating to road building, improvement and maintenance,
 3 and disseminate the same throughout the state by means of circu-
 4 lars and bulletins which it may see cause to issue, which, when
 5 ordered by the governor shall be printed by the state printers, and
 6 through farmers' institutes and other organizations as well as
 7 through such bulletins as may be issued by the college of agri-
 8 culture and the commissioner of agriculture. Said bureau shal
 9 cause public meetings to be held in each county under the general
 10 supervision and control of the chief road engineer for the pur-
 11 pose of furnishing general information and instructions regard-

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12 ing the constructions and improvement or maintenance of public
 13 roads and bridges and concerning the publication of all laws, rules
 14 and regulations relating to roads, and the examination of those who
 15 desire to qualify for highway positions. Reasonable notice shall
 16 be given the county road engineer of the time and place at which
 17 any such meeting is to be held.

Sec. 17. All county road engineers and the president or at
 2 least one member of the county court designated by him, shall

3 visit the office of the state road bureau at least once in every year
4 and shall receive instructions in road building for at least ten
5 days and the bureau may fix the time or times when such annual
6 visits may be made by such county road engineers and members
7 of the county court for the purpose of receiving instructions. In
8 counties not having engineers the county court may designate such
9 other persons as are in actual charge of road work to attend such
10 meetings. The actual expense incurred by such county road en-
11 gineers, other persons and members of the court, shall be paid out
12 of the county treasury of each county when allowed by the county
13 court, but no expenses shall be paid until such persons shall have
14 obtained from the chief of road engineer or other member of the
15 state road bureau a certificate showing that such person was in
16 actual attendance and received instruction at said meeting.

Sec. 19. The state prison road force shall be guarded when

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2 working on the roads of the state and in making road materials
3 by guards detailed by the warden of the penitentiary, who shall
4 designate one guard as the superior and the other as assistant. The
5 state guards shall obey the rules prescribed for the maintenance of
6 such camps. Any guard not obeying such rules upon recommenda-
7 tion of the engineer in charge of the work shall be immediately
8 removed. The guards so detailed shall not exceed one guard and
9 an assistant for thirty men and one guard and two assistants for
10 fifty men. The wages of such guard shall be fixed by the warden
11 of the penitentiary and shall be the prevailing wage for a com-
12 petent foreman in the locality in which the camp is established,
13 but shall not exceed seventy-five dollars per month and board,
14 and for assistant guard, not over fifty dollars per month and
15 board. The warden of the penitentiary, his assistants and guards,
16 at the request of the state road bureau, may, so far as practicable,
17 make trusties of the said state prison road force employed under
18 this act. All guards and prisoners shall be under the direction of
19 the engineer in charge, and shall work not to exceed ten hours
20 per day, and each prisoner shall be paid for such time in excess
21 of nine hours per day at the contract rate paid by the county for
22 such prisoner's labor. The state board of health, state board of
23 control and the state road bureau shall jointly formulate such
24 rules and regulations and the state board of control shall allow

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25 such good time and other allowances as may be deemed wise for

26 the government of state prisoners and prison camps, in addition
27 to that now allowed by law.

28 All acts or parts of acts inconsistent herewith are hereby re-
29 pealed.

EXTRAORDINARY SESSION.

Senate Bill No. 18

[BY MR. BLESSING.]

Introduced March 5, 1915. Referred to the Committee on the
Judiciary. Ordered printed by the Committee.

A BILL to amend and re-enact sections two, three, seven, fourteen,
eighteen, fifty-four and fifty-six of chapter ten of the acts of one
thousand nine hundred and thirteen as amended and re-enacted
by the legislature at the regular session of one thousand nine
hundred and fifteen.

Be it enacted by the Legislature of West Virginia:

That sections two, three, seven, fourteen, eighteen, fifty-four and
fifty-six of chapter ten of the acts of one thousand nine hundred and
thirteen as amended and re-enacted by the legislature at the regular
session of one thousand nine hundred and fifteen, be amended and
re-enacted so as to read as follows:

Section 2. It is the intent of this act that the expenses of
2 the administration of said fund shall be paid out of the work-
3 men's compensation fund; and all expenses peculiar to the admin-
4 istration of this act, including the premium to be paid for the
5 bond of the state treasurer required under this act, the salary,
6 and when on official business, the traveling and incidental expen-
7 ses of the commissioner, and salaries or other compensation, trav-
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8 eling and other expenses of all officers or employees of the com-
9 missioner, and all expenses for furniture, books, maps, stationery,
10 appliances and property of all kinds shall be paid out of the work-
11 men's compensation fund; *provided, however*, that the aggregate
12 amount expended for the administration of said fund in any one
13 year shall not exceed \$90,000.00.

Sec. 3. All payments of salaries and expenses in the admin-
2 istration of this act shall be made by the state treasurer upon or-

3 der or voucher aproved and signed by the commissioner, directed
4 to the auditor of the state, who shall draw his warrant therefor,
5 and any such payment shall be charged to the workmen's compen-
6 sation fund.

Sec. 7. The commissioner may employ a secretary, actuary,
2 accountants, inspectors, examiners, experts, clerks, stenographers
3 and other assistants, and fix their compensation, which shall be
4 paid out of the workmen's compensation fund. The commis-
5 sioner, secretary, actuaries, accountants, inspectors, examiners, ex-
6 perts, clerks, stenographers and other assistants that may be em-
7 ployed shall be entitled to receive out of said fund their actual
8 and necessary expense while traveling on business of the com-
9 missioner. Such expenses shall be itemized and sworn to by the
10 person who incurred the expense, and allowed by the commis-
11 sioner.

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Fees for Officers and Witnesses.

Sec. 14. Each officer who serves such subpoena shall receive
2 the same fee as a sheriff, and each witness who appears, in obe-
3 dience to a subpoena, before the commissioner, or an inspector or
4 an examiner, shall receive for his attendance the fees and mile-
5 age provided for witnesses in civil cases in the circuit court, which
6 shall be audited and paid out of the workmen's compensation
7 fund in the same manner as other expenses are audited and paid,
8 upon presentation of proper vouchers approved by the commis-
9 sioner.

10 No witness subpoenaed at the instance of a party other than
11 the commissioner, or an inspector, or an examiner, shall be en-
12 titled to fees or mileage out of the workmen's compensation fund
13 unless the commissioner shall certify that his testimony was ma-
14 terial to the matter investigated.

Sec. 18. For the purpose of this act the industries that now
2 are or hereafter may be subject thereto, are divided into sched-
3 ules as follows:

4 (a) Coal mines, including their tipples, power, light, heat-
5 ing and ventilating plants, tramways, private tracks and sidings,
6 and accessory and auxiliary plants working in or with by-prod-
7 ucts.

8 (b) Paint manufactories, oil refineries, oil and gas wells, in-
9 cluding their pipe lines, storage, power or light plants, tramways,

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10 private tracks and sidings, and accessory and auxiliary plants
11 working in or with by-products.

12 (c) Iron and steel mills, including blast furnaces, smelters,
13 tube works, rolling mills, and their accessory and auxiliary plants,
14 working in or with by-products, generating power, light or heat
15 or operating tramways, private tracks and sidings.

16 (d) Sheet and tin plat mills, including their accessory and
17 auxiliary plants working in or with by-products, generating pow-
18 er, light or heat or operating tramways, private tracks and sid-
19 ings.

20 (e) Foundries, machine shops, fire-arms factories, tool fac-
21 tories, car building and repairing, structural iron works, and
22 working in or with iron and steel, not otherwise specified, where
23 power driven machinery is used, together with their accessory
24 and auxiliary plants working in or with by-products, or generating
25 power, light or heat, or operating tramways, private tracks and
26 sidings.

27 (f) Stamped metal works, can factories, enamel iron works,
28 and working in or with sheet iron or tin plate, not otherwise speci-
29 fied, where power driven machinery is used, together with their
30 accessory and auxiliary plants working in or with by-products,
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31 or generating power, light or heat, or operating tramways, pri-
32 vate tracks and sidings.

33 (g) Logging, logging railroads and tramways, saw mills,
34 including their accessory and auxiliary plants working in or with
35 by-products, or generating power, light or heat, or operating
36 tramways, private tracks and sidings.

37 (h) Planing mills, wood pulp, cordage and paper mills,
38 box factories, cooperage plants, furniture factories, woodenware
39 or wood fibre ware manufactories, vehicle works of every kind,
40 including their accessory and auxiliary plants working in or with
41 by-products, or generating power, light or heat, or operating tram-
42 ways, private tracks and sidings.

43 (i) Glass houses of all kinds, including manufactories of
44 tableware, bar goods, bottles, tumblers, lamps, glass light fixture
45 parts, window and plate glass, potteries of all kinds, including tile,
46 bricks, terra cotta, fire clay, earthenware, porcelain, china and
47 crockeryware using automatic machinery, together with acces-
48 sory and auxiliary plants working in or with by-products, or gen-

49 erating light or heat, or operating tramways, private tracks and
50 sidings.

51 (k) Printing plants of all kinds, electrotyping, photo en-
52 graving, lithographing, embossing, book binding, and accessory
53 and auxiliary lines of work and manufacture.

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54 (l) Woolen mills, knitting mills, cotton mills, carpet and
55 rug mills, clothing manufactories of every kind and working in
56 or with textiles not otherwise specified.

57 (m) Breweries, bottling works, canneries of fruits, vegeta-
58 bles, oils, fish, milk or meat, manufactories of preserves, jellies,
59 ketchup, sauces, relishes, pickles, flour and feed mills, bakeries,
60 confectioneries, drug and extract manufactories, tobacco, cigar,
61 stogie and cigarette manufactories, in which power driven ma-
62 chinery is used.

63 (n) Slaughter and packing houses, stock yards, soap, tal-
64 low, lard and grease manufactories, tanneries, artificial ice, and
65 refrigerating and cold storage plants, creameries, and carbon
66 black factories, in which power driven machinery is used.

67 (o) Steam laundries, dyeing and cleaning plants, stamping,
68 embossing and working with leather, shoe and harness manufac-
69 tories, mattress and bedding factories, upholstering factories, man-
70 ufacturers of rubber goods, and auxiliary and accessory lines of
71 work and manufacture not otherwise specified.

72 (p) Steam and other railroads and transportation systems
73 not otherwise specified.

74 (q) Street and interurban railways, whether propelled by
75 electricity or other power.

76-77 (r) Telegraph and telephone plants and systems, electric
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78 light and power plants and systems, steam heat and power plants
79 and systems, water works systems, gas works and systems, grain
80 elevators, and all lighting, heating or power systems not otherwise
81 specified.

82 (s) Quarries, stone crushers, gravel pits, mines other than
83 coal mines and working with asphalt, cement, stone or other build-
84 ing material not otherwise speicfied, power propelled ferries, sand
85 diggers and other water craft.

86 (t) Such works, occupations and manufactories specified
87 in the foregoing schedules as are operated without power driven
88 machinery.

89 (u) Match factories, powder mills, fireworks factories, and
90 works in which articles of an explosive nature are mixed or manu-
91 factured.

92 (v) Construction of tunnels, shafts, bridges, trestles, steep-
93 les, towers, grain elevators, tanks, water towers, wind mills, sub-
94 aqueous works, iron or steel frame structures, or parts of struc-
95 tures, blast furnaces, smoke stacks, cupolas or chimneys more than
96 fifty feet high, water works and systems, electric lights and power
97 plants and systems, gas works and systems, installation of steam
98 boilers, engines and dynamos, steam railroads, logging railroads,
99 street railways and systems, boat building with scaffolds, floating
100 docks, engineering works, structural work on buildings over

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101 three stories in height, not otherwise specified, and drilling of
102 wells.

103 (w) Construction and intallation of sewers, fire escapes,
104 freight or passenger elevator, advertising signs, ornamental met-
105 al work on or in buildings, metal ceilings, plate or window
106 glass, electrical wiring, stairways, buildings which require gal-
107 vanized iron or tin work, marble, stone or brick work, roof work,
108 slate work, plumbing work, carpenter work, electric work, in-
109 stalling automatic sprinklers, electric or fire alarm systems, heat-
110 ing or ventilating systems, or machinery not otherwise specified,
111 covering steam pipes and boilers, road and street making, street
112 or other grading, and structural work not otherwise specified.

113 (x) Any industry or business not specified in the forego-
114 ing schedules, for which any employer shall voluntarily apply
115 to the commissioner to be brought under the provisions of this
116 act. And the commissioner shall have the authority to classify
117 and place in one of the schedules aforesaid, or any schedule cre-
118 ated by him as hereinafter mentioned, any industry or business
119 subject to this act not hereinbefore specifically mentioned.

120 The commissioner shall have the power to reclassify into
121 schedules, at any time, the industries subject to this act, and to
122 create additional schedules if deemed avisable by him.

123 In addition to classifying into schedules the industries sub-
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124 ject to this act, as hereinbefore provided, it shall be the duty of
125 said commissioner, when in his opinion there is a sufficient num-
126 ber of employers with different degrees of hazard in any sched-
127 ule to warrant the same, to sub-divide any schedule into classes

128 based upon the respective degrees of hazard of such employer
129 as shown upon the books of the commissioner for a period of
130 twelve months previous to the time of such sub-division; and any
131 such employer who shall not have been a subscriber for said
132 period of twelve months shall be assigned to one of said classes
133 as may be deemed proper by the commissioner until his record
134 for one year can be obtained.

135 The risk of the different classes shall be determined from
136 the record of the employers forming each class as shown upon
137 the books of the commissioner. And the commissioner shall fix
138 the rate of premium for each class according to the risk of the
139 same.

140 (y) It shall be the duty of the commissioner in the ex-
141 ercise of the powers and discretion conferred upon him in the
142 preceding sub-section, to fix and maintain the lowest possible
143 rates of premium consistent with the maintenance of a solvent
144 workmen's compensation fund after paying the cost of adminis-
145 tration of the fund and the creation and maintenance of a rea-
146 sonable surplus after providing for the payment of all liability

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147 incurred by reason of injury or death to employees entitled to
148 benefits under the provisions of this act; and, in order that said
149 object may be accomplished the commissioner shall observe the
150 following requireemnts in classifying occupations and fixing the
151 rates of premium for the risk of the same.

152 (1) He shall keep an accurate account of the money paid
153 in premiums by each of the several schedules, and the liability
154 incurred, and disbursements on account of injuries and death of
155 employees thereof; and also keep an account of the money re-
156 ceived from each individual employer, and the liability incurred
157 and disbursements on account of injuries and death of the em-
158 ployees of such employer.

159 (2) Ten per centum of all that may hereafter be paid into
160 the workmen's compensation fund shall be set aside for the cre-
161 ation of a surplus fund until such surplus shall amount to the
162 sum of one hundred thousand dollars, after which time the sum
163 of five per centum of all the money paid into the said fund shall
164 be credited to such surplus fund, until such time as, in the
165 judgment of the commissioner, such surplus shall be sufficiently
166 large to cover the catastrophe hazard and all other unanticipated
167 losses. A sufficient per centum of all premiums paid into the

168 workmen's compensation fund shall be set aside and used for
169 the payment of the cost of administration of the fund.

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170 (3) On the first day of July, one thousand nine hundred
171 and sixteen, and annually thereafter, a readjustment of the rates
172 shall be made for each of the several classes in accordance with
173 the experience of the commissioner in the administration of the
174 law, as shown by the accounts kept, as provided herein; *pro-*
175 *vided*, that nothing contained in this sub-section shall prevent
176 the commissioner from adjusting at any time the premium rate
177 for any class.

178 It shall be the duty of the commissioner whenever he changes
179 any rate to notify every employer affected thereby of that fact
180 and of the new rate and when the same takes effect. It shall
181 also be his duty to furnish to each employer yearly, or oftener
182 if requested by the employer, a statement giving the name of
183 each of his employees who were paid for injury and the amount
184 so paid during the period covered by the statement.

Sec. 54. Notwithstanding anything contained in this act,
2 employers subject to this act who are of sufficient financial re-
3 sponsibility to insure the payment of compensation to injured em-
4 ployees and th dependents of fatally injured employees, whether
5 in the form of pecuniary compensation or medical attention,
6 funeral expenses or otherwise hereinbefore provided, of the value
7 at least equal to the compensation provided in this act, or em-
8 ployers of such financial responsibility who maintain their own

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9 benefit funds or systems of compensation, to which their em-
10 ployees are not required or permitted to contribute, or such em-
11 ployers as shall furnish bond or other security to insure such pay-
12 ments, may, upon a finding of such facts by the ocompensation
13 commissioner, elect to pay individually and directly or from such
14 benefit funds, department or association the said compensation
15 and expenses to injured employees of fatally injured employees'
16 dependents; and the compensation ocmmissioner shall require
17 such security or bond from said employer to be approved by him
18 and of such amount as is by him considered adequate and suffi-
19 cient to compel or secure to said employees, or their dependents,
20 payment of the compensation and expenses herein provided for.
21 which shall in no event be less than the compensation paid or
22 furnished out of the state workmen's compensation fund in simi-

23 lar cases, to injured employees or the dependents of fatally in-
24 jured employes whose employers contribute to said fund; *pro-*
25 *vided*, that any employer electing under this section, shall, on or
26 before the twenty-fifth day of each month, for the preceding
27 month, file with the commissioner a sworn statement of the total
28 earnings of all his employees subject to this act for such preced-
29 ing month and shall pay into the workmen's compensation fund
30 a sum sufficient to pay his proper proportion of the expense of the
31 administration of this act including the additional expense in-
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32 curred on account of the employer electing to carry his own risk,
33 the amount to be so paid to be determined by the commissioner.
34 The commissioner shall make and publish rules and regulations
35 governing the mode and manner of making application and the
36 nature and extent of the proof required to justify the finding of
37 facts by said commissioner, to consider and pass upon such elec-
38 tion by employers subject to this act, which said rules and regu-
39 lations shall be general in their application; and any employer
40 subject to this act who shall elect to carry his own risk and who
41 has complied with the requirements of this section and the rules
42 of the compensation commissioner shall not be liable to respond
43 in damages at common law or by statute for the injury or death
44 of any employee, however occurring, after such election and dur-
45 ing the period that he is allowed to carry his own risk by said
46 commissioner; *provided*, the injured employee has remained in
47 his service with notice given, as provided for in section twenty-
48 three of this act, that his employer has elected to carry his own
49 risk as herein provided. The continuation in the service of such
50 employer with such notice shall be deemed a waiver by the em-
51 ployee and by the parents of any minor employee of the right of
52 action, as aforesaid, which the employee or his or her parents
53 would otherwise have.

54 And, *provided, further*, that any employer whose record upon

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55 the books of the public service commission or compensation com-
56 missioner shows a liability against the workmen's compensation
57 fund, incurred on account of injury to or death of any of his em-
58 ployees, in excess of premium paid by said employer, shall not
59 be granted the right to individually and directly or from such
60 benefit funds, department or association, to compensate his in-
61 jured employees and the dependents of his fatally injured em-

62 ployes until he has paid into the workmen's compensation fund
63 the amount of said excess of liability over premiums paid, in-
64 cluding his proper proportion of the liability incurred on account
65 of explosions or catastrophes occurring within the state and
66 charged against said fund and including the proportionate part
67 of the cost of administration of said fund.

68 And, *provided, further*, that in any case under the provisions
69 of this section that shall require the payment of compensation
70 or benefits by any employer in periodical payments, and the nature
71 of the case makes it possible to compute the present value of all
72 future payments, the commissioner may, in his discretion, at any
73 time, compute and permit or require to be paid into the work-
74 men's compensation fund an amount equal to the present value
75 of all unpaid compensation for which liability exists. in trust;
76 and thereupon such employer shall be discharged from any fur-
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77 ther liability upon such award and payment of the same shall be
78 assumed by the workmen's compensation fund.

Sec. 56. This act shall go into effect as soon as the state
2 compensation commissioner has qualified.

3 All acts and parts of acts, in conflict with this act, are here-
4 by repealed.

SENATE BILLS

SECOND EXTRAORDINARY SESSION

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 7

(Originating in Select Committee, without recommendation).

Introduced May 20, 1915. Taken up in its regular order, read a first time and ordered to its second reading.

A BILL to amend and re-enact sections one, three, six, seven and twenty-four of chapter eight of the acts of the legislature of West Virginia, of one thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

That sections one, three, six, seven and twenty-four of chapter eight of the acts of the legislature of West Virginia, of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Section 1. The governor shall appoint a hotel inspector to hold office at the will and pleasure of the governor; he shall before entering upon the duties of his office, take the oath of office prescribed by the constitution of the state, and shall give bond in the penalty of five thousand dollars, which when approved by the governor, shall be filed and recorded in the office of the secretary of state. Said hotel inspector shall receive a salary of twenty-one hundred dollars per annum, and actual traveling and contingent expenses not to exceed twenty-five hundred dollars per annum.

Sec. 2. The state board of health shall make such rules and regulations not consistent with law as in their judgment are necessary to carry out the intent of this act, which rules and regulations shall take effect when approved by the attorney general and the governor. The said hotel inspector shall assist in the enforcement of any orders made by the state board of health, and of the state respecting pure food, so far as they relate to hotels and restaurants.

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Sec. 3. For the purpose of this act, every building kept, used as, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, whether with or without meals, and payment required therefor shall be deemed a hotel; and every place where food without lodging is furnished to

6 guests and payment required therefor, shall be deemed a restaurant.
7 rant.

Sec. 4. Every person, firm or corporation engaged in the business of conducting a hotel or a restaurant, shall on or before the first day of July, one thousand nine hundred and thirteen, make application as hereinafter described to the hotel inspector for inspection and a certificate thereof, and such inspector, if he shall be unable to make inspection of such hotel or restaurant within thirty days, shall issue to such applicant a temporary permit which shall hold good until a regular inspection is made. After said first day of July, one thousand nine hundred and thirteen, every person, firm or corporation proposing to conduct a hotel or restaurant, shall apply to the hotel inspector for an inspection and

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12 certificate thereof and said inspector shall inspect the premises described in such application as soon thereafter as may be; but if it is impracticable to do so within ten days after receiving such application, said inspector may issue to such applicant a temporary permit as above provided. But one certificate or permit shall be used where a hotel and restaurant are combined and conducted in the same building and under the same management. Each certificate or permit shall expire on the thirtieth day of June next following its issuance and no hotel or restaurant shall be maintained and conducted in this state after July first, one thousand nine hundred and thirteen without the certificate of inspection thereof as herein prescribed, which certificate shall be posted in the main public room of such hotel or restaurant, and shall show the date of such inspection and the notations relating thereto by the hotel inspector. No such certificate shall be transferable. The fee of such inspection and certificate or permit shall be for a hotel, two dollars. And twenty-five cents additional for each bed room in excess of seven; and for a restaurant, two dollars, and twenty-five cents additional for each five chairs or stools, or spaces where persons are fed in excess of the first ten, but no fee shall exceed ten dollars. All such fees shall be paid before the inspection is made, by the hotel inspector. Such inspection shall, on the first of each month, pay into the state treasury S. B. No. 7.]

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35 all fees collected for inspections during the preceding month.
36 Every certificate of inspection or permit under this act shall be
37 made and issued in duplicate.

Sec. 5. Every such certificate shall show that the hotel or restaurant is equipped and conducted according to law, and shall be kept in some conspicuous place in such hotel or restaurant. Every such permit shall show, according to the fact, why it is granted, and that the hotel or restaurant is according to law permitted to be kept, and it shall be kept posted in like manner.

Sec. 6. No license to keep a hotel, tavern or restaurant, and no certificate for such license shall hereinafter be issued unless there is filed in the county court to which application therefor is made, a temporary permit granted by the hotel inspector as provided in this act. Every license shall bear on its face the serial number of such temporary permit.

Sec. 7. The application for inspection of a hotel or restaurant shall file with the hotel inspector a written application in form to be prescribed by the state board of health and which shall set forth the name and address of the owner of the building or property to be occupied, and of the agent of any such owner; the name and address of the lessee and manager, if any, of the hotel or restaurant; the location of such hotel or restaurant and a full description of the building or property to be occupied by it and

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such other matters as may be required by the state board of health. The fee for inspection shall be paid to the hotel inspector when a regular inspection is made.

Sec. 8. The hotel inspector shall inspect, or cause to be inspected, at least once annually, every hotel and restaurant in the state. For that purpose he, or any person designated by him, shall have the right of entry and access at any reasonable time to inspect kitchens where food is prepared, pantry and storage rooms pertaining thereto, dining rooms, lunch counters, and every place where articles pertaining to the serving of the public are kept or prepared. The said inspector shall prohibit the use of any articles not in keeping with cleanliness and good sanitary conditions. He shall also have the right to enter any and all parts of a hotel at all reasonable hours to make such inspection, and every person in the management, or control thereof, shall afford free access to every part of the hotel and render all assistance necessary to enable the inspector to make full, thorough and complete examination thereof, but the privacy of any guest in any room occupied by him, shall not be invaded without his consent.

Sec. 9. Whenever, upon such inspection, it shall be found

2 that any such hotel or restaurant is not equipped, or being con-
3 ducted in the manner and under the conditions required by the
4 provisions of this act, the hotel inspector shall notify the owner,

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5 room, or fraction thereof. Every such extinguisher shall be
7 placed in a convenient location in the public hallway, outside of
8 sleeping rooms, at or near the head of stairs, and shall always be
9 in condition for use.

Sec. 15. All hotels in this state shall be provided with a
2 public wash room convenient and of easy access to guests, and
3 in each bed room and public wash room there shall be furnished
4 for each registered guest clean, individual towels, of cotton or
5 linen, so that no two or more registered guests will be required
6 to use the same towel unless it has been first washed. Such indi-
7 vidual towel shall not be less than twelve inches wide and eigh-
8 teen inches long after being washed.

Sec. 16. In every hotel or restaurant a list of its charges
2 for rooms and meals shall be posted in a conspicuous place in
3 its office or main room. *Provided, however,* that the hotel oper-
4 ated on the European, or la carte plan, shall not be required to
5 quote their charge for meals so served.

Sec. 17. No person, firm or corporation engaged in con-
2 ducting a hotel or a restaurant, shall knowingly have in their
3 employ any person who has an infectious, contagious or communi-
4 cable disease.

Sec. 18. Every person keeping or conducting a hotel shall
2 see that every room or bed which has been occupied by any per-
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3 son known to have an infectious, contagious or communicable
4 disease at the time of such occupancy, is thoroughly disinfected by
5 methods to be prescribed by the state board of health before said
6 room shall be occupied by any other person. Any person violating
7 the provisions of this section shall be subject to a fine not exceed-
8 ing three hundred dollars, and to confinement in jail not exceeding
9 six months, or both, at the discretion of the court.

Sec. 19. Every hotel shall after July first, one thousand
2 nine hundred and fifteen provide each bed, bunk, cot or other
3 sleeping place for the use of guests with pillow slips and under
4 and top sheets, the under sheet to be of sufficient size to completely
5 cover the mattresses and springs and top sheet to be of like width
6 and at least ninety-nine inches long and not to be less than ninety

7 inches in length after having been laundered. Such sheets and pillow slips shall be made of white cotton or linen, and all such sheets and pillow slips after being used by one guest must be washed and ironed before being used by another guest, a clean set being furnished each succeeding guest. All bedding, including mattresses, quilts, blankets, pillows, and all carpets and floor covering used in any hotel in this state, must be thoroughly aired, disinfected and kept clean.

Sec. 20. In every hotel, any room infected with vermin or bed bugs, shall be fumigated, disinfected and renovated until said

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3 vermin or bed bugs are extirpated.

Sec. 21. All notices to be given by the hotel inspector shall be in writing and shall be delivered either in person or sent by registered mail.

Sec. 22. Any person, firm or corporation who shall operate a hotel or restaurant in this state, or who shall let a building to be used for such purpose, without having first complied with the provisions of this act, shall be guilty of a misdemeanor and shall be fined the sum of five dollars for each day such failure to comply shall continue.

Sec. 23. The prosecuting attorney of each county in this state is hereby authorized and required, upon complaint on oath of the hotel inspector, or other person, or persons, to prosecute to termination before any court of competent jurisdiction, in the name of the state, a proper action or proceeding against any person, or persons, violating the provisions of this act.

Sec. 24. The provisions of this act shall not apply to any hotel or boarding house wherein there are fewer than five bed chambers for guests; nor to any rooming house wherein guests are not offered accommodations for a period of less than three days at any one time, nor to any farm house or private house which is not held out to the public as a hotel or boarding house.

Sec. 25. To carry into effect the provisions of this act, the S. B. No. 7.]

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5 manager or agent in charge of such hotel or restaurant of such changes or alterations as in the judgment of the hotel inspector may be necessary to effect a complete compliance with the provisions of this act. Such owner, manager, or agent, shall thereupon make such alterations or change as may be necessary to put such buildings and premises in a condition, and conduct it in a

11 manner that will fully comply with the requirements of this act.
12 *Provided, however,* that due time after receiving such notice shall
13 be allowed for conforming to the requirements thereof, which time
14 shall be specified in the notice. Should the change or alterations
15 directed by such notice not to be made in the time specified there-
16 in, the said inspector shall proceed against the person, or persons
17 in default in any court having jurisdiction to enforce the provis-
18 ions of this act against him or them. Every person, firm or cor-
19 poration which shall fail to refuse to comply with the provisions of
20 this section, shall be guilty of a misdemeanor and on conviction
21 thereof, shall be subject to a fine of five dollars for each and every
22 day such failure or refusal may continue. If such failure or re-
23 fusial shall continue for thirty days after the notice from the hotel
24 inspector, the inspector may proceed in the circuit court of the
25 county wherein such hotel or restaurant is, for an order closing it.
25-a After such order is issued, the building or property shall not again
26 be used for a hotel or restaurant until a certificate or permit there-

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27 for shall have been issued by the hotel inspector, and any disobedi-
28 ence of such order shall be punished as other contempts of court.
29 Reasonable notice shall be given of the application for such order.

Sec. 10. Every hotel and restaurant in this state, shall be
2 properly lighted by day and by night, shall be properly plumbed
3 and ventilated and shall be conducted in every department with
4 strict regard for the health, comfort and safety of guests. Such
5 proper plumbing and draining shall be done and maintained
6 according to approved sanitary principles. Such proper ventila-
7 tion shall be construed to require at least one door and one window
8 in every sleeping room, which window shall permit easy access
9 to the outside of the building, light-well or court. No room shall
10 be used for a sleeping room which does not open to the outside of
11 the building or light-wells, air shafts or courts, and every sleep-
12 ing room shall have at least one window.

Sec. 11. In every city, town or village where a system of
2 water works and sewerage is maintained for public use, every hotel
3 therein shall, within six months after the passage of this act, be
4 equipped with suitable water closets for the accommodation of
5 guests, which water closets shall be connected by proper plumbing
6 with such sewer systems, and to be provided with the means of
7 flushing such water closets with the water of such system in such
8 manner as to prevent sewer gas or effuvia arising therefrom. All

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9 lavatories, bath tubs, sinks, drains, closets and urinals in such
10 hotels must be furnished and equipped in similar manner, both as
11 to methods and time.

Sec. 12. In all cities, towns or villages not having a system
2 of water works, every hotel shall have properly constructed privies
3 or vaults to receive the night soil, that shall be kept clean and well
4 screened at all times, and free from all filth of every kind. The
5 privies shall have separate compartments for each sex, each com-
6 partment being properly designated.

Sec. 13. Whenever it shall be proposed to erect a building
2 three stories or more in height, intended for use as a hotel in this
3 state, it shall be the duty of the owner or proprietor of such hotel
4 to construct the same so that one main hallway on each floor above
5 the ground floor shall run to an opening in the outside wall of the
6 building. Every building used as a hotel after the passage of this
7 act must comply with the provisions of the Code of West Virginia
8 pertaining to fire escapes. All fire escapes shall be indicated by
9 a red light and placard in each hallway leading to such fire escapes.

Sec. 14. Every hotel shall be provided with one fire extin-
2 guisher of style and size approved by the natural board of fire
3 underwriters, on each floor containing twenty-five hundred square
4 feet of floor area; and one additional fire extinguisher on each
5 floor for each additional twenty-five hundred square feet of floor
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2 following appropriations of money out of the state treasury are
3 hereby made, namely: For the fiscal year ending June the thirtieth,
4 one thousand nine hundred and sixteen for contingent and travel-
5 ing expense, twenty-five hundred dollars; and for the fiscal year
6 ending June the thirtieth, one thousand nine hundred and seven-
7 teen for the same purpose, twenty-five hundred dollars; and for
8 salary of inspector for the fiscal year ending June the thirtieth,
9 one thousand nine hundred and sixteen, two thousand one hundred
10 dollars; and for the same purpose for the fiscal year ending June
11 the thirtieth, one thousand nine hundred and seventeen, two thous-
12 sand one hundred dollars.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 5

[BY MR. MCCRUM, (BY REQUEST.)]

Introduced May 20, 1915; referred to the Select Committee; reported back with the recommendation that it do not pass; May 21, up in regular order, read a first time and ordered to second; recommitted to Select Committee.

A BILL to license and regulate all automobiles, used for the purpose of carrying passengers or freight, for profit, commonly known as "Jitney Busses."

Be it enacted by the Legislature of West Virginia:

Section 1. All owners of automobiles busses, commonly known as "Jitney Busses", operating or to be operated in the state of West Virginia, for the purpose of carrying passengers or freight, for profit, shall apply to the state tax commissioner for license for each of such automobile busses operated, and a tax shall be paid to the state, in the same way that other license taxes are paid, for each of such automobile busses operated, of one hundred dollars per year or fraction thereof, which tax shall be paid before said license is issued; all licenses shall expire with the fiscal year.

Sec. 2. Before beginning the operation thereof under this law, for each automobile buss operated, the owner must secure, in some bonding company authorized to do business in the state of West Virginia, an indemnity bond in the sum of ten thousand S. B. No. 5.]
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dollars to secure the payment of any judgment that may be given against said owner by any court of this state, for damages or otherwise.

Sec. 3. All such automobile busses, commonly known as "Jitney Busses." employed for carrying passengers or freight, for profit, shall be considered common carriers and come under the jurisdiction of the public service commission, and said commission shall have authority to designate what shall constitute a "Jitney Buss", within the meaning of this act.

Sec. 4. Any county or incorporated city or town in the state of West Virginia is hereby authorized to enact such laws as it

3 may deem proper for the taxing and regulating the operation of
4 such automobile business through the streets and highways.

Sec. 5. Any person, persons, or corporation, or an agent there-
2 of, who shall operate or cause to be operated any such automobile
3 buss without license as provided for in section one hereof, or who
4 shall violate any of the provisions of this act, shall, on conviction,
5 be fined not less than one hundred nor more than three hundred
6 dollars.

7 All acts or parts of acts inconsistent with this act and in con-
8 flict herewith, are hereby repealed.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 11

[BY MR. LOWE.]

Introduced May 22, 1915. Reference to Committee dispensed
with; rules suspended, taken up for immediate consideration; read
a first time and ordered to its second reading.

A BILL to amend sections seven and thirty-one of chapter thirteen,
acts of the legislature of one thousand nine hundred and thir-
teen, as amended by chapter seven, acts of the legislature of one
thousand nine hundred and fifteen, regular session, relating to
prohibiting the manufacture, sale, and keeping for sale, of in-
toxicating liquors and the enforcement of the amendment of sec-
tion 46, article VI, of the State Constitution, ratified on the fifth
day of November, one thousand nine hundred and twelve.

Be it enacted by the Legislature of West Virginia:

That sections seven and thirty-one of chapter thirteen, acts of the
legislature of one thousand nine hundred and thirteen, as amended
by chapter seven of the acts of the legislature of one thousand nine
hundred and fifteen, regular session, relating to prohibiting the
manufacture, sale and keeping for sale, of intoxicating liquors and
the enforcement of the amendment of section forty-six, of article
six, of the state constitution, ratified on the fifth day of November,
one thousand nine hundred and twelve, be amended as herein set out.

Sec. 7. It shall be unlawful for any person to keep or have,
2 for personal use or otherwise, or to use, or permit another to have,
3 keep or use, intoxicating liquors at any restaurant, store, office

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4 building, club, place where soft drinks are sold (except a drug
5 store may have and sell alcohol and wine as provided by sections
6 four and twenty-four), fruit stand, news stand, room, or place
7 where bowling alleys, billiard or pool tables are maintained, livery
8 stable, boat house, public building, park, road, street or alley (ex-
9 cept such road, street or alley may be lawfully used by a person
10 transporting, in good faith, intoxicating liquors to his home as
11 provided in section thirty-one of this chapter).

12 It shall also be unlawful for any person to give or furnish to
13 another intoxicating liquors, except as otherwise hereinafter pro-
14 vided in this section. Any one violating this section shall be guilty
15 of a misdemeanor, and upon conviction thereof shall be fined not
16 less than one hundred dollars, nor more than five hundred dollars,
17 and be imprisoned in the county jail not less than two nor more
18 than six months: *provided, however*, that nothing contained in this
19 section shall prevent one, in his home, from having and there
20 giving to another intoxicating liquors when such having or giving
21 is in no way a shift, scheme or device to evade the provisions of
22 this act; but the word "home" as used herein, shall not be con-
23 strued to be one's club, place of common resort, or room of a
24 transient guest in a hotel or boarding house. And, *provided, fur-*
25 *ther*, that no common carrier, for hire, nor other person, for hire
26 or without hire, shall bring or carry into this state, or carry from
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27 one place to another within the state, intoxicating liquors for an-
28 other, even when intended for personal use; except a common
29 carrier may, for hire, carry pure grain alcohol and wine, and such
30 preparations as may be sold by druggists for the special purposes
31 and in the manner as set forth in sections four and twenty-four;
32 and, *provided, further, however*, that in case of search and seizure,
33 the finding of any liquors shall be *prima facie* evidence that the
34 same are being kept and stored for unlawful purposes.

Sec. 31. It shall be unlawful for any person to bring or carry
2 into the state, or from one place to another within the state, even
3 when intended for personal use, liquors exceeding in the aggregate
4 one-half of one gallon in quantity, unless there is plainly printed
5 or written on the side or top of the suit case, trunk or other con-
6 tainer, in large display letters, in the English language, the con-
7 tents of the container or containers, and the quantity and kind of
8 liquors contained therein. And it shall be unlawful for any per-

9 son to bring or carry into this state, or from one place to another
10 within the state, even when intended for personal use and when
11 labeled as aforesaid, liquors in excess of the following: Spirituous
12 liquors, one and one-half gallons; wine, or liquor of like nature,
13 two gallons; malt liquors, or liquors of like nature, four gallons.
14 If any two or more of the above described classes of liquors are
15 brought or carried into the state, or from one place to another

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16 within the state, by any one person at any one time, the aggregate
17 quantity thereof shall not exceed four gallons. If any person
18 shall violate this section, he shall be deemed guilty of a misde-
19 meanor; and the liquors in the possession of any person violating
20 this section may be seized, and shall be *prima facie* evidence of
21 the unlawful keeping, storing and selling of same by the person
22 having such liquors in his possession; and upon the conviction of
23 such person he shall be subject to the fines and imprisonments as
24 provided for in section three.

25 All acts and parts of acts inconsistent with the provisions of
26 this act are hereby repealed.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 3

(Originating in Select Committee, with recommendation to pass.)

Introduced May 18, 1915. Taken up in regular order, read a first time and ordered to second reading.

A BILL to amend and re-enact sub-section six-a (6-a), of chapter forty-seven of the acts of the legislature of West Virginia of one thousand nine hundred and three; (serial section 3509, code 1913); relating to game and fish.

Be it enacted by the Legislature of West Virginia:

That section six-a (6-a) of chapter forty-seven of the acts of the legislature of West Virginia of one thousand nine hundred and three (serial section 3509, code 1913), be amended and re-enacted so as to read as follows:

Section 6-a. It shall be unlawful for any person, firm or
2 corporation, to throw in, or allow to enter, any stream or water
3 course, in this state, saw dust or any other matter deleterious to

4 the propagation of fish. Any person, firm or corporation violating
 5 any of the provisions of this section shall be guilty of a misde-
 6 meanor, and, upon conviction thereof, fined not less than twenty-
 7 five dollars, nor more than one hundred dollars for each and
 8 every such offence; *provided*, that nothing in this section shall
 9 apply to water drained or flowing from coal mines or coal wash-
 10 eries; and *provided further*, that no prosecution to enforce

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11 this section shall be instituted or conducted without the consent
 12 or approval of the forest, game and fish warden first obtained in
 13 writing and filed with the court of justice before whom said
 14 prosecution is begun; and said forest, game and fish warden
 15 shall have control over such prosecution.

16 All acts and parts of acts coming within the purview hereof
 17 and inconsistent herewith are hereby repealed.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 10

(Reported from Select Committee with recommendation to pass.)

Introduced May 22, 1915; rules suspended, taken up for immediate consideration, read a first time and ordered to its second reading, constitutional rules dispensed with, read a second time by its title, ordered to its engrossment and third reading.

A BILL to amend and re-enact sections twenty-six and forty-four of chapter sixty-two, of the code of one thousand nine hundred and thirteen (being serial sections 3486 and 3508 respectively of said code), as amended by chapter fourteen of the acts of the legislature of West Virginia, of 1915, all relating to the protection and preservation of certain animals, birds and fishes, forest and streams.

Be it enacted by the Legislature of West Virginia:

That sections twenty-six and forty-four of chapter sixty-two, of the code of one thousand nine hundred and thirteen (being respectively, serial sections 3486 and 3508 of said code), as amended by chapter fourteen of the acts of the legislature of West Virginia

of one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows, to-wit:

Section 26. It shall be unlawful for any person to catch, kill
2 or injure, or pursue with intent to catch, kill or injure, any ruffed
3 grouse or pheasant, or wild turkey between the first day of Decem-
4 ber and the fifteenth day of October of the following year; or

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5 any quail or Virginia partridge between the first day of December
6 and the first day of November following. Nor shall any one per-
7 son kill more than twelve quail or six ruffed grouse or two wild
8 turkeys in any one open day, nor more than ninety-six quail or
9 twenty-five ruffed grouse or six wild turkeys in any one open
10 season. No person shall kill any wild duck, grouse or brant
11 between the fifteenth day of January and the first day of Octo-
12 ber: *provided*, that the wood duck shall not be killed at any
12-a time within the state; woodcock between the thirteenth day
12-b of November and the first day of October following; plover,
13 ortalan or sandpiper between the fifteenth day of December and
14 the first day of September following; rail between the thir-
15 tieth day of November and the first day of September following;
16 or any snipe between the fifteenth day of December and the
17 fifteenth day of October following; nor any gray, black, red or
18 fox squirrel between the first day of December and the fifteenth
19 day of September, both inclusive, of the following year. Nor
20 shall any person kill more than twelve squirrel in any one day,
21 nor more than one hundred during one open season.

22 It shall be lawful for any person at any time and by any means,
23 to catch, kill or pursue, with intent to catch or kill any rabbit
24 upon his own land or upon any lands which he may be an actual
25 *bona fide* tenant or resident, and also for the agent of the owner
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26 or tenant of such lands to so hunt and kill any rabbit thereon by
27 the direction of such owner or tenant, but it shall be unlawful
27-a for any person otherwise than upon his own land, or the
28 land upon which he is a resident or tenant, or the agent of such
29 owner or tenant, by his direction, to catch, kill or injure, or
30 pursue with intent to catch, kill or injure any rabbit between the
31 thirty-first day of December and the fifteenth day of October fol-
32 lowing.

33 It shall be unlawful for any person to catch, kill or injure by

34 means of a gun, snare, trap, poison, or in any other manner, any
35 raccoon, opossum, mink, or skunk between the first day of Jan-
36 uary and the first day of November following; muskrat between
37 the first day of March and the first day of November following;
38 and it shall be unlawful for any person to catch, kill or injure by
39 means of a gun, snare, trap or poison any red fox between the
40 first day of January and the first day of November following;
41 *provided, however,* that it shall be lawful for any person at any
42 time or by any means to catch, kill or pursue, any red fox, rac-
43 coon, mink, opossum, skunk or muskrat upon his own lands, or
44 any lands upon which he may be an actual *bona fide* tenant or
45 resident, and also for the agent of the owner or tenant of such
46 land, to so hunt and kill any red fox, raccoon, mink, opossum,
47 skunk or muskrat thereon by the direction of such owner or tenant.

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48 but it shall be unlawful for any person at any time to set or
49 maintain any snare or trap upon the improved or enclosed lands
50 of another without the express permission of the owner or tenant
51 or such land, or at any time to set or maintain any steel or spring
52 bear trap upon any lands not his own.

53 Any person violating any of the provisions of this section shall
54 be guilty of a misdemeanor, and upon conviction thereof shall be
55 fined not less than twenty-five nor more than fifty dollars for each
56 offense, and in the discretion of the justice or court trying the case,
57 be imprisoned in the county jail for a period not exceeding thirty
58 days for each offense. And the unlawful catching, killing or injur-
59 ing of each any every wild game bird, or wild game animal here-
60 inbefore mentioned in this section, shall be deemed a separate
61 offense; and in default of the payment of the fine and costs, the
62 person convicted shall be confined in the county jail for a period
63 not exceeding thirty days, unless such fine and costs be sooner
64 paid: *provided, however,* that the forest, game and fish warden
65 or deputy wardens, or other persons, under the direction of the
66 warden, may capture by any means any of the game birds or game
67 animals to keep them alive for propagation purposes. And, *pro-*
68 *vided, further,* that the warden may give written permission to any
69 responsible person, as provided by section thirty-eight of this
70 chapter.

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Sec. 44. It shall be unlawful for any person not a citizen of
2 the United States of America or not a *bona fide* resident of this

3 state, or any corporation doing business in this state, to catch or
4 destroy any of the fish in the creeks or rivers of this state, or sub-
5 ject to the jurisdiction thereof, without first having obtained a
6 license so to do, and then only by the means whereby and during
7 the respective periods when it shall be lawful so to do. Such li-
8 cense shall be procured in the following manner, to-wit: The
9 applicant shall go before the clerk of the county court of some
10 county of this state and fill out a blank application, to be pro-
11 vided by the forest, game and fish warden, stating his name, age,
12 occupation, weight, height, place of residence, and color of hair,
13 eyes and complexion; said application shall be subscribed by the
14 applicant in ink, and sworn to by the applicant before said clerk,
15 and shall aver that his statements made therein are true and cor-
16 rect to the best of his knowledge and belief; the applicant shall
17 thereupon pay to said county clerk the sum of five dollars as a
18 license tax. The said clerk shall thereupon issue to such appli-
19 cant a license of the form to be furnished by the said warden,
20 entitling such applicant to catch and take fish, according to law,
21 from any of the creeks or rivers of this state; *provided, however,*
22 that such applicant may fill out said application and sign and
23 swear to the same before some notary public or justice of the

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24 peace of the county wherein such application is made and send
25 the same to said clerk, together with the amount of said license
26 tax, and such clerk shall send him such license. Such license shall
27 be signed by said clerk, and shall bear the seal of the county court
28 of the county in which the same is issued and no fee shall be
29 charged therefor by the said clerk. All such license taxes shall be
30 paid by the said clerk to the state treasurer on the first day of each
31 month for the month next preceding. No person to whom such
32 license has been issued shall exercise the privilege thereby con-
33 ferred without at the time having such license in his actual pos-
34 session, and he shall exhibit the same on demand to any officer of
35 this state; or owner, tenant or lessee of any land upon which such
36 person is fishing; *provided, however,* that nothing herein con-
37 tained shall be construed to require the non-resident owner of any
38 lands in this state, or his children, to obtain such license in order
39 to lawfully fish upon such lands.

40 It shall not be lawful for any person to catch or destroy any
41 of the fish in the creeks or rivers of this state by any other means
42 than hook and line, including a trot line having the hooks there-

43 on not less than two feet apart. It shall not be lawful for any
44 person to have in his possession, or to set or maintain anywhere
45 in this state, or on any waters subject to the jurisdiction thereof,
46 any seines, trap or device whereby fish may be taken or caught.
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47 Nor shall it be lawful for any person to catch or have in his pos-
48 session any jack salmon, commonly called jack fish, or any pike
49 less than ten inches in length, or any white salmon of less than
50 seven inches in length, or any black bass less than eight inches
51 in length, or any trout less than six inches in length; or any fish
52 fish caught out of season or caught in any manner prohibited by
53 law. And all fish less than the length prescribed herein shall be
54 returned to the water immediately with as little injury as possi-
55 ble.

56 And the measurement of fish shall be from the end of nose to
57 center fork of tail. It shall be unlawful to take or destroy any
58 jack salmon (commonly called jack fish or white salmon) in any
59 manner, between the first day of April and the first day of July
60 in each year; or to catch or destroy any trout or land lock salmon
61 in any manner, between the first day of August and the first day
62 of April following.

63 It shall not be lawful for any person to catch any black bass,
64 green bass, willow bass, rock bass, pike or pickerel, or wall-eyed
65 pike (commonly known as salmon) between the first day of April
66 and the first day of July of each year.

67 It shall not be lawful for any person to catch or destroy fish
68 in any dam or pond the property of any person, except with the
69 consent of the owner of such dam or pond, unless such dam or

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70 pond be in some of the rivers in this state. But nothing in this
71 chapter shall be so construed as to prevent the catching of min-
72nows or other small fish, except salmon, bass, shad and trout, by
73 means of hand or cast nets, to be used for angling or scientific
74 purposes; nor to prevent the warden of the state or his deputies
75 or any person with their or his consent from catching any fish
76 at any time with nets or seines for the purpose of propagation or
77 stocking other waters, nor to prevent any person from taking in
78 any way fish from his private dam, spring or pond at any time.

79 Any person who shall knowingly and wilfully let the water
80 out of any pond mentioned herein, with intent to take or injure
81 fish therein, shall be guilty of a misdemeanor and shall be pun-

82 ished, upon conviction, by imprisonment in the county jail, not
82-*a* less than one month nor more than six months, or by a fine of not
83 less than fifty nor more than two hundred dollars, or by both
84 fine and imprisonment.

85 The owners of those in control of lands or rights in land, in
86 or bordering upon any pond designated in this act, shall have
87 erected and maintained in a conspicuous place along those ponds,
88 when they are un-enclosed, a sign at least a foot square and which
89 shall have thereon the name of the party in control and the words,
90 "Trespassers warned off under penalties of the law." Any person
91 who shall wilfully and wrongfully tear down, deface or injure the
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92 boards provided for in this section, shall be guilty of a misde-
93 meanor and liable to a penalty as hereinafter provided.

94 Any person violating any provision of this section, except as
95 otherwise herein provided, shall be guilty of a misdemeanor, and
96 for every conviction thereof shall be fined not less than ten dol-
97 lars nor more than one hundred dollars, and may, at the discre-
98 tion of the court or justice trying the case, be confined in the
99 county jail not exceeding thirty days.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 1

AN ACT to provide additional revenue for the state by amending and re-enacting section twenty-four-*a*-I and twenty-four-*a*-III of chapter fifty-four of the code, serial sections 2918 and 2920 of the code of one thousand nine hundred and thirteen, and repealing section twenty-four-*a*-VI, serial section 2923, relating to corporations; and by amending and re-enacting section sixty-two of chapter thirty-two of the code, as last amended and re-enacted by chapter sixty-six of the acts of one thousand nine hundred and thirteen, relating to the rate of taxation on real and personal property for state and state school purposes and the amount of the general school fund; and by repealing sections one hundred and twenty-six, one hundred and twenty-seven and one hundred and twenty-eight of chapter thirty-two of the code, serial sections 1259, 1260 and 1261, and enacting in lieu thereof a section to be numbered one hundred and twenty-six of said chapter, serial section 1259 of the code, relating to license tax

on resident and non-resident corporations; and by amending and re-enacting section one hundred and thirty of chapter thirty-two, serial section 1263 of the code, relating to annual license tax on foreign corporations for the privilege of holding property and doing business in this state; and by imposing a special excise tax on corporations, joint stock companies, associations, and insurance companies, for the privilege of doing business in the state of West Virginia; amending chapter thirty-two of the code, by adding thereto sections five to sixteen, both inclusive, of this act, to be numbered from one hundred and forty-seven to one hundred and fifty-eight, both inclusive, of said chapter.

Be it enacted by the Legislature of West Virginia:

Section 1. That sections twenty-four-a-I and twenty-four-a-2 III, of chapter fifty-four of the code of West Virginia, being serial 3 sections 2918 and 2920, be amended and re-enacted so as to read 4 as follows:

5 That chapter twenty-four-a-VI of said chapter, being serial 6 section 2923, be repealed.

Sec. 24-a-I. The auditor of this state shall be, and he is 2 hereby, constituted the attorney in fact for and on behalf of every 3 foreign corporation doing business in this state and of every non- 4 resident domestic corporation, with authority to accept service of 5 process on behalf of and upon whom service of process may be 6 made in this state for and against every such corporation. No 7 act of such corporation appointing the auditor such attorney in 8 fact shall be necessary.

Sec. 24-a-III. The post office address of such corporation 2 shall be filed with the power of attorney, and there shall be filed 3 with the auditor from time to time statements of any change of 4 address of said corporation. Immediately after being served with, 5 or accepting any such process or notice, the auditor shall make 6 and file a copy of such process or notice, with a note thereon in- 7 dorsed of the time of service, or acceptance, as the case may be 8 and transmit such process or notice by registered mail to such 9 corporation at the address last furnished as aforesaid. But no 10 such process or notice shall be served on the auditor or accepted 11 by him less than ten days before the return thereof.

Sec. 2. That section sixty-two of chapter thirty-two of the 2 code, as last amended and re-enacted by chapter sixty-six of the 3 acts of one thousand nine hundred and thirteen, relating to the 4 rate of taxation on real and personal property for state and state

5 school purposes and the amount of the general school fund, be
6 amended and re-enacted so as to read as follows:

7 “Sec. 62. On all real and personal property not exempt from
8 taxation for the year one thousand nine hundred and fifteen,
9 fourteen cents on the one hundred dollars valuation, for the year
10 one thousand nine hundred and sixteen not to exceed fourteen
11 cents on the one hundred dollars, and thereafter not to exceed
12 ten cents on the one hundred dollars valuation, for state and
13 state school taxes, shall be imposed upon real and personal prop-
14 erty; *provided*, that the board of public works for the year one
15 thousand nine hundred and sixteen, and thereafter may reduce
16 and fix the amount of the levy for the state and state school
17 purposes to any amount not less than one cent on each one
18 hundred dollars; and said board may, when it deems that no state
19 levy is necessary for any year, so declare, and refrain from fixing
20 or laying any such levy for such year; and, *provided, further*,
21 that said board, in its discretion, for the year one thousand nine
22 hundred and fifteen, or any year thereafter, may apportion the
23 levy fixed by it between the state fund and the general school
24 fund. But if the amount of the general school fund in any year
25 is less than seven hundred and fifty thousand dollars, the board
26 of public works shall transfer thereto from the state fund an
27 amount necessary to make the general school fund at least seven
28 hundred and fifty thousand dollars. Any act of the board of
29 public works in fixing the levy shall be certified by the president
30 and secretary of said board to the clerk of the county court, the
31 assessor and the sheriff of every county not later than the first
32 day of September for the year one thousand nine hundred and
33 fifteen, and thereafter not later than the first day of August of
34 the year for which said levy is to apply; and it shall be the duty
35 of said officers to extend the levy so fixed by the board of public
36 works on the personal property books and the land books of their
37 county.”

 Sec. 3. That sections one hundred and twenty-six, one hun-
2 dred and twenty-seven and one hundred and twenty-eight of
3 chapter thirty-two of the code, being serial sections 1259, 1260
4 and 1261, be repealed, and the following enacted, to be numbered
5 section one hundred and twenty-six of said chapter, serial section
6 1259 of the code.

7 “Sec. 126. Every resident and non-resident domestic cor-
8 poration shall pay a license tax on its charter for the fiscal year

9 beginning the first day of July, one thousand nine hundred and
10 fifteen, and annually thereafter, based on its authorized capital
11 stock as follows:

12 If the authorized capital stock be five thousand dollars, or
13 less, twenty dollars.

14 If more than five thousand dollars and not more than ten
15 thousand dollars, thirty dollars.

16 If more than ten thousand dollars and not more than twenty-
17 five thousand dollars, forty dollars.

18 If more than twenty-five thousand and not more than fifty
19 thousand dollars, fifty dollars.

20 If more than fifty thousand dollars and not more than
21 seventy-five thousand dollars, eighty dollars.

22 If more than seventy-five thousand dollars and not more than
23 one hundred thousand dollars, one hundred dollars.

24 If more than one hundred thousand dollars and not more than
25 one hundred and twenty-five thousand dollars, one hundred and
26 ten dollars.

27 If more than one hundred and twenty-five thousand dollars
28 and not more than one hundred and fifty thousand dollars, one
29 hundred and twenty dollars.

30 If more than one hundred and fifty thousand dollars and not
31 more than one hundred and seventy-five thousand dollars, one
32 hundred and forty dollars.

33 If more than one hundred and seventy-five thousand dollars
34 and not more than two hundred thousand dollars, one hundred
35 and fifty dollars.

36 If more than two hundred thousand dollars and not more
37 than one million dollars, one hundred and eighty dollars, and an
38 additional twenty cents on each one thousand dollars, or fraction
39 thereof, in excess of two hundred thousand dollars.

40 If more than one million dollars, three hundred and forty
41 dollars and an additional fifteen cents on each one thousand dol-
42 lars, or fraction thereof, in excess of one million dollars.

Sec. 4. That section one hundred and thirty of chapter
2 thirty-two of the code, being serial section 1263 of the code of
3 West Virginia nineteen hundred and thirteen, relating to the
4 annual license tax on foreign corporations for the privilege of
5 holding property and doing business in this state be amended and
6 re-enacted to read as follows:

7 "Sec. 130. Every foreign corporation holding property or

8 doing business in this state shall make report to the auditor
9 annually in the third month preceding the beginning of the license
10 tax year, in which report shall be set out :

11 *First.* The name of such corporation, the name of the state
12 or country by which incorporated, the date of the incorporation,
13 the date of the certificate of the secretary of state authorizing it
14 to do business in this state, the place of its principal office, the
15 names and post office addresses of its president, secretary, and of
16 its officers, if any, charged with the duty of making returns of its
17 property for taxation and the name and post office address of its
18 attorney of record in this state ;

19 *Second.* The number of shares of its authorized capital
20 stock, and the par value of each share ;

21 *Third.* The value of the property owned and used by such
22 corporation within this state, where situate, of what it consists,
23 and the number of acres of land it holds in this state ; and the
24 value of its property owned and used within this state ; and,

25 *Fourth.* The proportion of its capital stock which is repre-
26 sented by property owned and used in the state of West Virginia.
27 Such report shall be verified by the affidavit of the president, sec-
28 retary or other executive officer of such corporation.

29 It shall be the duty of the auditor to assess and fix the license
30 tax of such corporation according to the proportion of its capital
31 stock which is represented by its property owned and used in this
32 state, which license tax shall be at the rate prescribed in section
33 three of this act, plus fifty *per centum* of such tax ; *provided*, that
34 no such corporation shall pay an annual license tax of less than one
35 hundred and fifty dollars. The auditor may in any case require
36 such additional information as he may deem necessary to enable
37 him to assess and fix the just amount of license tax of such cor-
38 poration ; and it shall be his duty to notify every such corporation
39 of the amount so assessed by him ; and it shall be the duty of the
40 corporation to pay the same into the treasury of the state within
41 thirty days thereafter, and if it fail to do so it shall be liable to
42 the penalties prescribed in sections one hundred and thirty-six
43 and one hundred and thirty-seven of this chapter."

Sec. 5. Every corporation, joint stock company, or associa-
2 tion organized for profit, and having a capital stock represented
3 by shares, and every insurance company, respectively, now or here-
4 after organized under the laws of this state, or under the laws
5 of any other state or government and engaged in any business

6 whatsoever in the state of West Virginia, shall pay an annual
7 special excise tax for the privilege of carrying on or doing business
8 in the state of West Virginia, equivalent to one-half of one *per-*
9 *centum* upon the entire net income of such company, received by
10 it from all sources during the year, on business transacted and
11 capital invested in this state, as hereinafter set forth; *provided,*
12 *however,* that nothing in this section contained shall apply to labor,
13 agricultural or horticultural organizations; nor to mutual savings
14 banks not having a capital stock represented by shares and which
15 are operated exclusively for the benefit of their depositors; nor
16 to cemetery companies, which are organized and operated exclu-
17 sively for the benefit of their members; nor to fraternal benefi-
18 ciary societies, orders or associations operating under the lodge
19 system, or for the exclusive benefit of the members of a fraternity
20 itself operating under the lodge system, and providing for the
21 payment of life, sick, accident, and other benefits to the members
22 of such societies, orders or associations, and dependents of such
23 members; nor to domestic building and loan associations organized
24 and operated exclusively for the benefit of their members; nor to
25 any corporation or association organized and operated exclusively
26 for religious, charitable, scientific or educational purposes; nor
27 to business leagues, chambers of commerce or boards of trade, or
28 to any civic league or organization organized and operated exclu-
29 sively for the promotion of social welfare, none of which said or-
30 ganizations, savings banks, cemetery companies, fraternal benefi-
31 ciary societies or fraternities, building and loan associations, char-
32 itable, religious, scientific or educational associations, business
33 leagues, chambers of commerce or boards of trade, or civic leagues,
34 named in this proviso, are organized for profit, and no part of the
35 net income of which inures to any private stockholder or indi-
36 vidual.

Sec. 6. Every such corporation, joint stock company, asso-
2 ciation, or insurance company, hereinafter called company, liable
3 under the preceding section for the tax imposed by this act,
4 shall, on or before the first day of March, one thousand nine hun-
5 dred and sixteen, and on or before the first day of March in each
6 year thereafter, deliver to the state tax commissioner a return in
7 writing, which shall be signed and sworn to by its president, vice-
8 president, or other principal accounting officer, in the form pre-
9 scribed by the state tax commissioner, as hereinafter prescribed,
10 for the year ending December thirty-first, next preceding; *pro-*

11 *vided*, that any corporation, joint stock company or association,
12 or insurance company subject to this tax may designate the last
13 day of any month in the year as the day of the closing of its fiscal
14 year and shall be entitled to have the tax payable by it computed
15 upon the basis of the net income, ascertained as herein provided,
16 for the year ending on the day so designated in the year preceding
17 the date of assessment instead of upon the basis of the net in-
18 come for the calendar year preceding the date of assessment; and
19 it shall give notice of the day it has thus designated as the closing
20 of its fiscal year to the tax commissioner not less than thirty
21 days prior to the date upon which its annual return shall be filed.
22 And all corporations, joint stock companies or associations, and
23 insurance companies, computing taxes upon the income of a fiscal
24 year which it may designate in the manner hereinbefore provided,
25 shall render a like return within sixty days after the close of its
26 said fiscal year, and within sixty days after the close of its fiscal
27 year in each year thereafter. Such return shall accurately and
28 fully set forth:

29 *First.* The total amount of paid up capital stock of such
30 company outstanding at the close of the year; or, if no capital
31 stock, the amount employed in its business at the close of the year.

32 *Second.* The total amount of its bonded and other indebt-
33 edness at the close of the year.

34 *Third.* The gross amount of its income received during such
35 year from all sources, and in the case of insurance companies dis-
36 tinguishing between that arising from business transacted within
37 this state and out of this state; and also stating separately the
38 amount received by it within the year, by way of dividends upon
39 stock of other corporations, joint stock companies, associations
40 or insurance companies subject to the tax imposed by this act,
41 giving the name and location of every such company, upon the
42 stock of which such dividends are received, and the amount of
43 such dividends received from each of such companies.

44 *Fourth.* The total amount of all the ordinary and necessary
45 expenses paid out of the earnings within the year in the main-
46 tenance and operation of the business and properties thereof, sta-
47 ting separately all charges such as rentals or other payments re-
48 quired to be made as a condition to the continued use or posses-
49 sion of the property.

50 *Fifth.* The total amount of all losses actually sustained dur-
51 ing the year and not compensated by insurance or otherwise,

52 stating separately any amounts claimed for depreciation of prop-
53 erty; and, in the case of insurance companies, also of dividends
54 paid within the year, including those paid on policy and annuity
55 contracts, and the net addition, if any, required by law to be made
56 within the year to reserve funds in this state.

57 *Sixth.* The amount of interest accrued and paid within the
58 year on its bonded and other indebtedness not exceeding one-half
59 of the sum of its interest-bearing indebtedness and its paid up
60 capital stock outstanding at the close of the year, or if no capital
61 stock, the amount of interest paid within the year on the amount
62 of the indebtedness not exceeding the amount of the capital em-
63 ployed in the business at the close of the year; and in case of a
64 bank, banking association, or trust company, stating separately
65 all interest paid within the year on deposits.

66 *Seventh.* The amount paid by it within the year for taxes
67 of every kind imposed under the authority of this state, and sep-
68 arately the amount so paid by it for taxes imposed by any other
69 government.

70 *Eighth.* The net income of such company, after making the
71 deductions and exemptions authorized by the next section.

Sec. 7. The net income of every such company as is required
2 to make the return named in the preceding section, and for which
3 the tax shall be assessed which is imposed by this chapter, shall
4 be ascertained by deducting from the gross amount of its income
5-6 received within the year:

7 *First.* All of the ordinary and necessary expenses actually
8 paid within the year out of its earnings in the maintenance and
9 operation of its business and properties, including rentals or other
10 payments required to be made as a condition to the continued use
11 or possession of the property.

12 *Second.* All losses actually sustained within the year and
13 not compensated by insurance or otherwise, including a reason-
14 able allowance for depreciation by use, wear and tear of property,
15 if any; and in case of mines, a reasonable allowance for the de-
16 pletion of ores and of other natural deposits, not to exceed five
17 *per centum* of the gross value at the mine of the output for the
18 year for which the computation is made; and in case of insur-
19 ance companies the net addition, if any, required by law to
20 be made within the year to reserve funds, and the sums other
21 than dividends paid within the year on policy and annuity
22 contracts: *provided*, that mutual fire insurance companies re-

23 quiring their members to make premium deposits to provide for
24 losses and expenses, shall be entitled to deduct from gross income
25 any portion of such premium deposits returned to policy holders
26 within any year; and that life insurance companies shall be en-
27 titled to deduct from gross income in any year such portion of
28 any actual premium received from any individual policy holder
29 as shall have been paid back or credited to such individual policy
30 holder, or treated as an abatement of premium of such individual
31 policy holder, within such year, and that assessment insurance
32 companies shall be entitled to deduct from gross income in any
33 year the actual amount deposited with any state officer, pursuant
34 to law, as addition to guaranty or reserve funds.

35 *Third.* The amount of interest accrued and paid within the
36 year on its bonded or other indebtedness as defined and limited
37 in the preceding section; and in case of a bank, banking associa-
38 tion, or trust company, all interest actually paid by it within the
39 year on deposits; *provided*, that in case of bonds or other indebt-
40 edness that have been issued with a guaranty that the interest
41 payable thereon shall be free from taxes, no deduction for the pay-
42 ment of the tax herein imposed shall be allowed, and in case of
43 a bank, banking association, loan or trust company, interest paid
44 within the year on deposits or moneys received for investment
45 and secured by interest bearing certificates of indebtedness issued
46 by such bank, banking association, loan or trust company.

47 *Fourth.* All sums paid by it within the year for taxes of
48 every kind, other than assessments for local benefits or improve-
49 ments.

50 *Fifth.* All amounts received by it within the year as divi-
51 dends upon stock of other corporations, joint stock companies, as-
52 sociations, or insurance companies, subject to the tax hereby im-
53 posed.

54 The tax herein imposed shall be computed upon the entire
55 taxable net income accrued within the year ending December
56 thirty-first, one thousand nine hundred and fifteen, and for each
57 calendar or fiscal year thereafter.

58 It is the intention of this chapter to assess the tax imposed
59 thereby on the net income as defined therein of the corporations,
60 joint stock companies, associations, and insurance companies
61 named in section four, arising from business transacted and cap-
62 ital invested in this state. Every such company having capital
63 invested in its business in this state only, shall pay the tax upon

64 its entire net income ascertained as herein provided; and every
65 such company, except an insurance company, engaged in business
66 and having capital invested and transacting business both in and
67 out of the state, shall pay the tax upon that part of its entire net
68 income which bears the same proportion to its whole net income
69 that the assessed value for purposes of taxation of its assets and
70 property within the state bears to the total assessed value of all of
71 its assets and property in the jurisdictions where it is located.
72 Insurance companies transacting business both in and out of the
73 state shall pay the tax upon that part of the entire net income
74 which bears the same proportion to the whole net income ascer-
75 tained, as herein provided, that the gross receipts from business
76 transacted within the state bears to the total gross receipts from
77 all sources for the period the tax is assessed.

78 No life insurance company, subject to the tax imposed by
79 this act, and the tax of two *per centum* on its premium income
80 imposed by chapter seventy-seven of the acts of one thousand
81 nine hundred and seven, nor any agent thereof, shall be required
82 to pay a license or other like tax to any municipal corporation for
83 the privilege of transacting business therein.

Sec. 8. The state tax commissioner shall furnish blank forms
2 for making all returns required by this chapter, which forms shall
3 conform as far as practicable to those furnished from time to
4 time to such companies by the collector of internal revenue for the
5 United States for making returns for the excise tax provided for
6 by act of congress passed on the third day of October, nineteen
7 hundred and thirteen. And any company required to make a
8 return by any provision of this chapter may furnish to the state
9 tax commissioner a copy or duplicate of the return for the same
10 period which it may make to the collector of internal revenue,
11 under the requirements of said act of congress, except that an
12 insurance company, transacting business both in and out of the
13 state, shall supplement the same by a statement showing separately
14 the gross income from business transacted in the state and the
15 gross income from all sources; and any such company, other than
16 an insurance company, engaged in business and having capital
17 invested both in and out of the state, shall supplement said copy
18 or duplicate to be furnished to the state tax commissioner, with a
19 statement showing the assessed valuation of all property and assets
20 for purposes of taxation in the state, and the total assessed value
21 for purposes of taxation of all property and assets out of the

21-a state. Such duplicate or copy and any supplemental statement
22 furnished with the same, shall be verified by the oath of the presi-
23 dent or a vice president and treasurer of the company making the
24 return, and the affidavit shall state that the copy or duplicate is
25 an exact and true copy of the account and statement contained
26 in the return made for the same period to the collector of internal
27 revenue, under the provisions of said act of congress. The return
28 so made shall be accepted as conclusive by the state tax commis-
29 sioner for the purposes of this act, except that any company which
30 may be required to make any amended or supplemental return
31 to the collector of internal revenue under said act of congress for
32 any year, shall, upon making the same, forthwith furnish to the
33 state tax commissioner a copy or duplicate of such amended or
34 supplemental return, which shall be considered in connection with
35 the original return to the state tax commissioner in assessing the
36 tax levied under this act.

Sec. 9. The state tax commissioner shall ascertain and assess
2 the tax upon the company making a return, and shall notify it of
3 the amount of such tax by a notice deposited in the postoffice ad-
4 dressed to such company at its principal office or place of business.
5 Such ascertainment of the tax shall be final and conclusive, unless
6 the same be appealed from in the manner following, within thirty
7 days after such notice is so deposited. If any company fail or
8 refuse to make a return, the state tax commissioner shall proceed,
9 in such manner as may seem best, to obtain the facts and informa-
10 tion required to be furnished by such return; and to this end he
11 may, by himself or his duly appointed agent, make examination of
12 the books, records and papers of any such company, and may take
13 the evidence, on oath, of any person who he may believe shall be
14 in possession of facts or information pertinent to the subject of
15 inquiry, which oath he or the agent so appointed by him may
16 administer. As soon as possible after procuring such information
17 as he may be able to do with respect to any company failing or
18 refusing to make a return, the state tax commissioner shall pro-
19 ceed to ascertain and assess the tax upon such company, and shall
20 notify it of the amount thereof as hereinbefore provided. And his
21 act shall be final as to any company which refused to make a return.

Sec. 10. If any such company, making a return as provided
2 by this act, feels aggrieved by the assessment so made upon it for
3 any year by the state tax commissioner, it may apply to the
4 board of public works by petition, in writing, within thirty days

5 after the notice is deposited as provided in the preceding section,
6 for a hearing and a correction of the amount of the tax so assessed
7 upon it by the state tax commissioner, in which petition shall be
8 set forth the reasons why such hearing should be granted and
9 the amount such tax should be reduced. The board shall
10 promptly consider such petition, and may grant such hearing or
11 deny the same. If denied, the petitioner shall be forthwith
12 notified thereof; if granted, the board shall notify the petitioner
13 of the time and place fixed for such hearing. After such hearing
14 the board may make such order in the matter as may appear to
15 them just and lawful, and shall furnish a copy of such order to
16 the petitioner.

Sec. 11. No injunction shall be awarded by any court or
2 judge to restrain the collection of the taxes imposed by this act,
3 or any part of them, so assessed upon any corporation, joint
4 stock company, association, or insurance company, except upon
5 the ground that the assessment thereof was in violation of the
6 constitution of the United States, or of this state; or, that the
7 same were fraudulently assessed; or that there was a mistake
8 made in the amount of taxes assessed upon such corporation,
9 joint stock company, association, or insurance company. In the
10 latter case no such injunction shall be awarded, unless applica-
11 tion shall be first made to the board of public works to correct
12 the alleged mistake, and the board shall refuse to do so, which
13 fact shall be stated in the bill, or unless the complainant pay
14 into the treasury of the state all taxes appearing by the bill of
15 complaint to be owing.

Sec. 12. Every company so assessed with taxes shall pay
2 the same into the state treasury within sixty days after the date
3 of the mailing of the notice of the amount thereof, or within
4 thirty days after notification of the amount thereof, when ascer-
5 tained and assessed by the board of public works on appeal. All
6 taxes assessed under provisions of this act against any such com-
7 pany shall constitute a debt to the state, and may be collected
8 by action of assumpsit, or appropriate judicial proceeding, which
9 remedy shall be in addition to all other existing remedies. It
10 shall be the duty of the state tax commissioner to proceed to
11 collect such taxes with a penalty of ten *per centum* added thereto
12 if not paid when due.

Sec. 13. The special excise tax imposed by this act shall
2 be a tax in addition to all license or other taxes now imposed or

3 prescribed by law as a condition for the transaction of any busi-
4 ness in this state, by any corporation, joint stock company, asso-
5 ciation, or insurance company; and when paid, shall authorize
6 the company making payment to engage in the business author-
7 ized by its charter, if otherwise lawful, and if such authority be
8 not otherwise forfeited, within the state of West Virginia for
9 the year for which the same is levied. At the time of paying the
10 taxes the state tax commissioner shall issue to the company pay-
11 ing the same a certificate of payment for the proper fiscal year.

Sec. 14. Any person required or authorized by law to make,
2 sign or verify any return by this act, who makes any false or
3 fraudulent return or statement with intent to defraud the state,
4 or defeat or evade the payment of the tax, or any part thereof,
5 imposed by this act, shall be guilty of a misdemeanor, and upon
6 conviction thereof, shall be fined not less than one hundred dol-
7 lars nor more than five thousand dollars, or may be imprisoned
8 not exceeding one year, or both, at the discretion of the court, to
9 which fine shall be added the costs of the prosecution.

Sec. 15. It shall be unlawful for any officer, agent, clerk or
2 other employee of the state to divulge or make known in any man-
3 ner whatever, not provided by law, to any person, the amount or
4 source of indebtedness, income, profits, losses, expenditures, or
5 any particular thereof, set forth or disclosed in any income re-
6 turn made under the provisions of this act; or to permit any such
7 return or copy thereof, or any book containing any abstract or par-
8 ticulars thereof, to be seen or examined by any person, except as
9 provided by law; and it shall be unlawful for any person to print
10 or publish in any manner whatever, not provided by law, any such
11 return or any part thereof, or the amount or source of income,
12 profits, losses or expenditures appearing in any such return. Any
13 person violating the foregoing provision shall be guilty of a mis-
14 demeanor, and, upon conviction thereof, shall be fined not ex-
15 ceeding one thousand dollars, or be imprisoned not exceeding
16 one year; or, in the discretion of the court, be both so fined and
17 imprisoned; and if the offender be an officer or an employee of
18 this state he shall be dismissed from office and be incapable there-
19 after of holding any office in the state or any subdivision of the
20 state. The state tax commissioner shall be custodian of all such
21 returns, and shall securely keep the same. The supreme court of
22 appeals of the state may, in each particular case, on application
23 of any officer of the state charged with the enforcement of the

24 laws of the state, and of any person or corporation interested, pre-
25 scribe the manner in, and conditions upon, which any return may
26 be made public or the use thereof in any court or judicial pro-
27 ceedings be procured. The court may also provide for the use
28 of a copy of such return instead of the original; *provided, how-*
29 *ever,* that nothing herein shall prohibit the making public of
30 any such return by and with the consent of the president or other
31 chief officer of the company making the return.

Sec. 16. In determining what is or is not a proper item of
2 income of any company, or a proper deduction from gross in-
3 come, for the purposes of this chapter, the state tax commissioner
4 shall follow and adopt any rule, or construction, which may here-
5 after be promulgated by the commissioner of internal revenue of
6 the United States, or given to said act of congress passed on the
7 third day of October, one thousand nine hundred and thirteen,
8 by the courts of the United States, and no item which may be
9 excluded by any such rule, or construction of said act, shall be
10 included in the income of any such company, or taxed as a part
11 of its income under the provisions of this chapter, and any item
12 of deduction from gross income made proper by such rule, or
13 construction of said act of congress, shall be allowed as a proper
14 item of deduction under this act.

Sec. 17. That chapter thirty-two of the code be amended by
2 adding thereto sections five to sixteen, both inclusive, of this act,
3 to be numbered in said chapter from one hundred and forty-seven
4 to one hundred and fifty-eight, both inclusive.

Sec. 18. All acts and parts of acts inconsistent with the
2 provisions of this act are hereby repealed.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 2

AN ACT to amend and re-enact section fifteen of chapter eight of the
acts of one thousand nine hundred and fifteen, regular session,
creating a public service commission, prescribing its powers and
duties and penalties for violation of the provisions of said
chapter.

Be it enacted by the Legislature of West Virginia:

That section fifteen, chapter eight of the acts of one thousand nine hundred and fifteen, regular session, be amended and re-enacted as follows:

Section 15. There shall be paid by all public service corporations subject to the provisions of this act a special license fee in addition to those now required by law. Such fees shall be fixed by the auditor, upon each of such public service corporations, according to the value of its property, as ascertained by the last preceding assessment, and shall be apportioned among such public service corporations upon the basis of such valuation, so as to produce a revenue of sixty thousand dollars per annum, or so much thereof as may be necessary, which shall be paid on or before the twentieth day of January in each year. Such sum of sixty thousand dollars, or so much thereof as may be necessary, is hereby appropriated and set aside for the purpose of paying the expenses of the commission, and the salaries, compensations, costs and expenses of its employees. The salaries of the members of the commission shall be payable out of the state fund, in the same manner as the salaries of other state officers are paid, and charged to the appropriations which have been and shall hereafter be made from time to time by the legislature for the administration of this act.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 3

AN ACT to amend and re-enact section 45-a-I of chapter sixty-two (serial section 3509), of the code of West Virginia, of one thousand nine hundred and thirteen, relating to game and fish.

Be it enacted by the Legislature of West Virginia:

Section 1. That section 45-a-I (serial section 3509) of the code of West Virginia of one thousand nine hundred and thirteen, be amended and re-enacted to read as follows:

Sec. 45-a-I. It shall be unlawful for any person, firm or corporation to throw, discharge or cause to enter into any stream, water-course or water in this state, saw-dust or other matter

4 deleterious to the propagation of fish. It shall be lawful, however,
5 to drain or cause to be drained from any mine in the state by the
6 owner or operator thereof the water that naturally collects in such
7 mine and the water from any coal washery, and to discharge the
8 same into any stream, water-course or water in the state; *provided*,
9 *however*, that any mine from which the water is so discharged
10 or drained shall be kept in a sanitary condition and the water
11 draining or flowing from such mine, and from such washery, shall,
12 while in the mine and on the premises of the mine owner or
13 operator, be kept free from pollution by human or animal excre-
14 ment or substance deleterious to health. And the state board of
15 health, its agents, employees and servants shall at all seasonable
16 times have authority to enter upon the premises and into any such
17 mine in order to see that the same is kept in a sanitary condition
18 and that the waters draining therefrom are free from the objec-
19 tionable substance named herein; with the right to the state
20 board of health to prevent any mine owner or mine operator
21 who fails to comply with the provisions of this act from draining or
22 discharging the water or waters from his or its mine into any
23 stream, water or water-course in the state; *provided, further*, that
24 any mine owner or operator having one suitable, convenient and
25 sufficient outlet for the water from his or its mine into one stream
26 shall not cause the same to be drained into any other stream.

27 Any person, firm or corporation violating any of the provisions
28 of this section shall be guilty of a misdemeanor and fined not less
29 than twenty-five dollars nor more than one hundred dollars for
30 each and every such offense; *provided*, that no prosecution to en-
31 force this section shall be instituted or conducted without the con-
32 sent and approval of the forest, game and fish warden; such con-
33 sent to be evidenced in writing and filed and entered of record
34 in the court or before the justice and in his docket, in which or
35 before whom the prosecution is begun or pending.

36 All acts or parts of acts inconsistent or in conflict with this act
37 are hereby repealed.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 4

AN ACT to amend and re-enact sections thirty-two, thirty-three, thirty-four and thirty-five of chapter fifty-eight of the code of West Virginia, as last amended by chapter fifty-one of the acts of the regular session of the legislature of one thousand nine hundred and fifteen.

Be it enacted by the Legislature of West Virginia:

That sections thirty-two, thirty-three, thirty-four and thirty-five of chapter fifty-eight of the code of West Virginia, as amended by chapter fifty-one of the acts of the regular session of the legislature of one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

Section 32. When an attendant is sent out from a state hospital to bring in a person committed thereto, the expense incurred in taking the person to the hospital, including the transportation and other necessary traveling expenses of such person and of the attendant, shall be paid out of the treasury of the State. A written and fully itemized statement of such expenses, sworn to by the attendant making the same and attested by the superintendent of the hospital, shall be sent by mail to the auditor, who shall issue his warrant upon the treasury therefor.

Sec. 33. Every county shall pay into the state treasury at the rate of fifty dollars per annum for every epileptic, idiot, imbecile, or such other incurable defective heretofore or hereafter admitted as a patient or inmate to the Huntington state hospital from such county, but the counties shall be required to pay at said rate of fifty dollars per annum or any other sum to the state for the maintenance of any insane person proper, anything in this act or any other provision of the laws of this state to the contrary notwithstanding. At every levy term of each county court it shall estimate for and levy a sufficient amount to meet all such expenses. The superintendent of said hospital, on or before the tenth day of January of each year, shall certify to the auditor a list of all the patients in the said hospital during the whole or any part of the preceding year for which the counties are to pay, showing on such list under the name of the county, the number from each county and the length of time he

13 was in said hospital during the year, and showing the amount due
14 from each county for each patient, and the total amount due from
15 each county for the year. As soon as such list is received by the
16 auditor he shall charge to each county the amount appearing to
17 be due therefrom from the certificates of the said superintendent.
18 Within ten days after the receipt of such certificate the auditor
19 shall make out a copy thereof for each county and certify the same
20 to the county court thereof, which list shall show the name of each
21 patient in said hospital from the county during the year, the length
22 of time he was in such hospital during the year, the amount
23 charged for each patient, and the total amount charged on account
24 of all such patients from the county; and said total amount shall
25 constitute a debt against the county due the state. Whenever there
26 is in the state treasury a sum of money due any county from any
27 source the same shall be at once applied on the debt aforesaid
28 against the county, and the fact of such application of such fund
29 shall be reported by the auditor to the county court of the county,
30 which report shall be a receipt for the amount therein named.
31 All moneys paid into the state treasury by counties as herein pro-
32 vided shall be credited by the auditor to the current expense or
33 maintenance fund of said hospital, and shall be subject to be
34 drawn out of the state treasury on the requisition of the state
35 board of control for the current expenses of the said hospital, and
36 all such moneys are hereby appropriated for that purpose.

Sec. 34. All moneys which any county shall pay or become
2 liable for under the provisions of this chapter on account of any
3 inmate from the county in any state hospital, the county court
4 of the county may recover, within five years after payment of
5 the same by the county or from the time the county became lia-
6 ble therefor, from the persons and in the manner following,
7 namely: If the inmate be a minor, from his guardian; or, if
8 he have no estate, or it be insufficient, from his father; or, if he
9 have no father or his estate be insufficient, from his mother. If
10 the inmate be an adult, from his or her estate; but if such es-
11 tate be insufficient, and the inmate be a wife, from the estate
12 of her husband; or, if his estate be insufficient, from the estate
13 of her children, or such of them as have sufficient estate. If the
14 inmate be a husband, and his estate be insufficient, from the
15 estate of his wife; or, if her estate be insufficient, from the estate
16 of his children, or such of them as have sufficient estate.

17 It shall be the duty of the guardian or committee of any

18 such inmate to pay to the county of which his ward is a resident,
19 if he have sufficient estate in his hands to do so, the money so
20 due to the county from his ward. The county court may order
21 its clerk to make out a bill against any such inmate for the sum
22 so due to the county, which bill shall show the different items and
23 the amount of each, and be certified by the clerk as correct, and
24 by him delivered to the sheriff for collection. The clerk shall
25 charge against the sheriff the amount of each of such bills, show-
26 ing the date when delivered to the sheriff. It shall be the duty
27 of the sheriff to collect the same from the proper person, or the
28 guardian or committee of such inmate. Within sixty days after
29 receiving any such bill, or at the next session of the county court
30 held after the expiration of such sixty days, the sheriff shall make
31 a report to the county court of his acts in respect thereto and
32 return all such bills he has been unable to collect. The county
33 court may redeliver any of such bills to the sheriff for collection,
34 and in respect thereto the sheriff shall make report as above pro-
35 vided.

Sec. 35. In the recovery of moneys due the county under the
2 provisions of this chapter, in addition to the provisions of this
3 chapter, all the provisions of sections fifteen, sixteen, seventeen
4 and eighteen of chapter forty-six of said code shall apply as far as
5 they may be applicable; and the county court may proceed ac-
6 cording to said provisions without first placing the claim in the
7 hands of the sheriff for collection; *provided*, that as to any per-
8 son liable to the county for any money under the provisions of
9 this chapter, the county court may, if it find he is unable to pay
10 the same, or that the payment of the same would work a hard-
11 ship upon him or his family or others dependent upon him, ex-
12 onerate him from the payment of the same or from a part there-
13 of, or make any other order in the matter that the county court
14 shall deem just and equitable or expedient under all the circum-
15 stances of the case.

SECOND EXTRAORDINARY SESSION.

Senate Bill No. 6

AN ACT to amend chapter thirteen, acts of the legislature of one
thousand nine hundred and thirteen, as amended by chapter
seven, acts of the legislature of one thousand nine hundred and

fifteen, regular session, relating to prohibiting the manufacture, sale and keeping for sale of intoxicating liquors and the enforcement of the amendment of section forty-six, article six of the state constitution, ratified on the fifth day of November, one thousand nine hundred and twelve, by enacting one additional section thereto, to be numbered section thirty-four, and to be part of said act.

Be it enacted by the Legislature of West Virginia:

That chapter thirteen, acts of the legislature of one thousand nine hundred and thirteen, as amended by chapter seven, of the acts of the legislature of one thousand nine hundred and fifteen, regular session, relating to prohibiting the manufacture, sale and keeping for sale, of intoxicating liquors and the enforcement of the amendment of section forty-six of article six of the state constitution, ratified on the fifth day of November, one thousand nine hundred and twelve, be amended by enacting, as additional thereto, one section, as part thereof, numbered thirty-four, as herein set out.

Sec. 34. It shall be unlawful for any person in this state to receive, directly or indirectly, intoxicating liquors from a common, or other carrier. It shall also be unlawful for any person in this state to possess intoxicating liquors, received directly or indirectly from a common, or other carrier in this state. This section shall apply to such liquors intended for personal use, as well as otherwise, and to interstate, as well as intrastate, shipments or carriage. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than two hundred dollars, and in addition thereto may be imprisoned not more than three months; *provided, however*, that druggists may receive and possess pure grain alcohol, wine and such preparations as may be sold by druggists for the special purpose and in the manner as set forth in sections four and twenty-four.

SECOND EXTRAORDINARY SESSION.

SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted May 18, 1915.)

Raising a joint committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a committee of two on the part of the senate and three on the part of the house of delegates, be appointed to jointly wait upon the governor and notify him that the legislature is now in extraordinary session pursuant to his proclamation dated May 12, 1915, with a quorum of each house present, and awaits any communication he may desire to make. The members of said committee to be appointed respectively by the president of the senate and speaker of the house of delegates.

SECOND EXTRAORDINARY SESSION.

SENATE CONCURRENT RESOLUTION NO. 2.

(Adopted May 24, 1915.)

Providing for the printing and distribution of the advance copies of the acts of the second extraordinary session.

Resolved by the Senate, the House of Delegates concurring therein:

That the clerk of the senate is hereby authorized and directed to concur with the clerk of the house of delegates in the publication of ten thousand advance copies of the acts of this extraordinary session, in pamphlet form, and that twenty-five copies of the same shall be mailed to each member of the senate and house of delegates; and that the clerks of the two houses shall also supply the tax commissioner, the secretary of state and the auditor with ten thousand additional copies of Senate Bill No. 1, known as the excise tax law.

Resolved, further, that the per diem of the clerk of the senate and house of delegates and the supervisor of printing and one assistant clerk for each house, be extended thirty days each, to head-note, print and mail the advance copies of the acts hereinbefore provided for; said per diem to be paid out of the contingent fund of the respective houses upon proper warrants drawn by the clerk of the senate and sergeant-at-arms of the house of delegates, upon the auditor.



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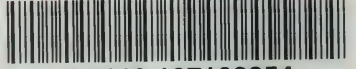
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